

1996

## CHAPTER P-9.1

### An Act respecting Pharmacists and Pharmacies

(Assented to April 30, 1996)

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

#### Short title

1 This Act may be cited as *The Pharmacy Act, 1996*.

#### Interpretation

2 In this Act:

- (a) **“administrative bylaw”** means a bylaw made for a purpose set out in subsection 14(1);
- (b) **“appointed councillor”** means a councillor appointed pursuant to section 8;
- (c) **“association”** means the Saskatchewan Pharmaceutical Association continued pursuant to section 3;
- (d) **“bylaws”** means the valid bylaws of the association;
- (e) **“council”** means the council of the association;
- (f) **“councillor”** means a person who is a member of the council;
- (g) **“court”** means the Court of Queen's Bench;
- (h) **“drug”** means a substance or combination of substances included in the drug schedules established pursuant to the regulations made pursuant to section 52 and listed in the bylaws;
- (i) **“elected councillor”** means a member who is elected as a councillor by the members of the association in accordance with this Act and the bylaws;
- (j) **“formulary”** means the formulary established by the minister pursuant to *The Prescription Drugs Act*;
- (k) **“inspector”** means a person who is designated pursuant to section 50;
- (l) **“interchangeable pharmaceutical product”** means a product that:
  - (i) is identified in the formulary as being interchangeable with another product;

- (ii) contains a drug or drugs in the same amounts, of the same active ingredients and in an equivalent dosage form as the product directed by the prescription; and
- (iii) contains a drug or drugs of acceptable equivalent therapeutic effectiveness as the product directed by the prescription;
- (m) **"intern"** means a person who is registered as a pharmacist intern pursuant to section 18;
- (n) **"licensed pharmacist"** means a member who holds a valid licence issued pursuant to section 18;
- (o) **"manager"** means the licensed pharmacist who has been designated by the proprietor of a proprietary pharmacy to have authority over and be responsible for the operation of the pharmacy and who is named in the permit issued for the pharmacy as the manager;
- (p) **"member"** means a member of the association who is in good standing;
- (q) **"minister"** means the member of Executive Council to whom for the time being the administration of this Act is assigned;
- (r) **"permit"** means a permit issued pursuant to section 19;
- (s) **"pharmacy"** means a place where drugs are prepared, compounded, dispensed or sold by retail;
- (t) **"practitioner"** means a duly qualified medical practitioner, dentist, veterinarian or other health care professional whose profession is prescribed in the regulations as authorized to issue prescriptions;
- (u) **"prescription"** means an authorization given by a practitioner directing that a stated amount of any drug or mixture of drugs specified in it be dispensed for the person or animal named in the authorization;
- (v) **"proprietor"** means a person who controls the operation of a proprietary pharmacy;
- (w) **"proprietary pharmacy"** means a retail pharmacy that is not a publicly operated pharmacy;
- (x) **"publicly operated pharmacy"** means a pharmacy that is operated as part of or in conjunction with the operation of a hospital, community health centre, special-care home or correctional institution if the pharmacy is operated by:
  - (i) the government of Saskatchewan or the government of Canada; or
  - (ii) a district health board or an affiliate within the meaning of *The Health Districts Act*;

- (y) **“record”** includes any information that is recorded or stored in any medium or by means of any device, including a computer or electronic media;
- (z) **“register”** means the register kept pursuant to section 16;
- (aa) **“registrar”** means the person appointed pursuant to subsection 11(2);
- (bb) **“regulatory bylaw”** means a bylaw made for a purpose set out in subsection 14(2);
- (cc) **“sell”** includes:
  - (i) advertising for sale;
  - (ii) exposing or keeping for sale;
  - (iii) selling or offering for sale, either directly or indirectly; or
  - (iv) offering or attempting to sell or barter using any device or scheme.

## ASSOCIATION

**Association continued**

3 The Saskatchewan Pharmaceutical Association is continued as a corporation.

**Property**

- 4(1) The association may acquire, hold, mortgage, lease, sell or dispose of any property.
- (2) All fees, fines and penalties receivable or recoverable pursuant to this Act are the property of the association.
- (3) The association may invest its funds in investments in which trustees are authorized to invest pursuant to *The Trustee Act* and may sell or otherwise dispose of those investments and reinvest the proceeds in similar investments.
- (4) The council may establish and administer a fund in accordance with the bylaws:
  - (a) to provide scholarships, fellowships or bursaries to assist members, interns and students of pharmacy to secure education and to conduct research in the field of pharmacy;
  - (b) to provide for a benevolent fund for members;
  - (c) for any purpose consistent with the objectives of the association.

**Membership**

5 The membership of the association consists of:

- (a) those persons who are members of the Saskatchewan Pharmaceutical Association on the day before section 1 comes into force; and
- (b) those persons who are admitted as members of the association pursuant to this Act and the bylaws.

**Meetings**

6(1) An annual meeting of the association is to be held at the time and place that is determined by the council in accordance with the bylaws.

(2) The procedure at an annual meeting or special meeting is to be determined by the bylaws.

(3) A special meeting of the association for the transaction of the business that is specified in the resolution or request is to be held:

- (a) on resolution of the council; or
- (b) on the request, in writing, of the number of members specified in the bylaws.

(4) Notice of the time, place and purpose of an annual or special meeting is to be given to the members in the manner prescribed by the bylaws.

(5) Notwithstanding subsection (4), the council shall give notice of a special meeting within 60 days of the request or resolution for a special meeting.

COUNCIL

**Council**

7(1) The council shall manage, govern and regulate the affairs and business of the association.

(2) The council consists of:

- (a) the number of councillors prescribed in the bylaws, which is to be not less than seven or more than 20 councillors elected from the membership in accordance with this Act and the bylaws;
- (b) the dean of the College of Pharmacy, University of Saskatchewan, or his or her designate;
- (c) the immediate past president of the association; and
- (d) the persons appointed pursuant to section 8.

(3) Councillors who hold office pursuant to clause (2)(a) or (c) hold office for the terms determined in the bylaws.

(4) Councillors who hold office pursuant to clauses (2)(a), (b) and (c) are entitled to remuneration and reimbursement for expenses in the amount determined in the bylaws.

**Public appointees**

8(1) The Lieutenant Governor in Council may appoint two persons who reside in Saskatchewan as councillors.

(2) Where the Lieutenant Governor in Council appoints a person as a councillor, the term of office of that person is

not to exceed three years.

- (3) Subject to subsection (4), an appointed councillor holds office until the person's successor is appointed and is eligible for reappointment, but is not eligible to hold office for more than two consecutive terms.
- (4) An appointed councillor ceases to hold office if the person ceases to be a resident of Saskatchewan.
- (5) An appointed councillor may exercise rights and serve as a member of committees to the same extent as other councillors, but is not eligible to be an officer of the association.
- (6) One of the appointed councillors is to be a member of the discipline committee.
- (7) The absence or inability to act as a member of the discipline committee by an appointed councillor or the failure to appoint a councillor pursuant to this section does not impair the ability of the other members of the discipline committee to act.
- (8) The minister shall pay remuneration and reimbursement for expenses of appointed councillors at the rate determined by the Lieutenant Governor in Council.

### **Resignation**

- 9(1) An elected councillor or a councillor who holds office pursuant to clause 7(2)(c) may resign by giving written notice of his or her resignation to the council.
- (2) An appointed councillor may resign by giving written notice of his or her resignation to the minister and the council.
- (3) The resignation of a councillor is effective on the date stated in the written notice or if no date is stated in the written notice:
  - (a) in the case of a resignation of a elected councillor or a councillor who holds office pursuant to clause 7(2)(c), on the date the written notice is received by the council; or
  - (b) in the case of a resignation of an appointed councillor, on the day the written notice is received by the minister.

**Vacancy**

**10(1)** When a vacancy occurs for an elected councillor, the remaining councillors may appoint another member to fill the vacancy until the earlier of:

- (a) the expiry of the term of office of the elected councillor; or
- (b) the date on which a member is elected to fill the vacancy in accordance with this Act and the bylaws.

(2) A vacancy in the membership of the council does not impair the ability of the remaining councillors to act.

**Officers and employees**

**11(1)** The officers of the association are to be those that are:

- (a) designated in the bylaws; and
- (b) appointed or elected in accordance with the bylaws.

(2) The council shall appoint a registrar.

(3) The council may engage any employees the council considers necessary to carry out the duties and functions of the association.

(4) Subject to this Act and the bylaws, the council shall determine the duties, responsibilities and remuneration of employees of the association.

**Committees**

**12(1)** The council may establish any committees that are provided for by the bylaws or that it considers necessary.

(2) The council shall appoint members to any committees that are provided for by this Act or the bylaws or that it has established pursuant to subsection (1).

(3) Committee members are entitled to be paid any remuneration and reimbursement for expenses that may be prescribed in the bylaws.

(4) The council may delegate any of its powers or duties, other than the power to make bylaws, on those terms or conditions that the council may determine, to the registrar or to a committee that is:

- (a) provided for by this Act or the bylaws; or
- (b) established pursuant to subsection (1).

(5) Subject to this Act and the bylaws, a committee may establish its own procedures.

BYLAWS

**Procedure**

- 13**(1) The council, with the approval of not less than three-quarters of the councillors, may make bylaws for any purpose set out in section 14.
- (2) With the approval of a two-thirds majority of those members who vote at an annual or special meeting, the association may make bylaws for any purpose set out in section 14.
- (3) The registrar shall notify each member of each bylaw made pursuant to subsection (1) or (2), within 150 days after the bylaw is made.
- (4) Failure to comply with subsection (3) does not invalidate a bylaw.
- (5) No regulatory bylaw made by the council or the association comes into force until it is:
- (a) approved by the minister pursuant to section 15; and
  - (b) published in the Gazette.

**Bylaws**

- 14**(1) Subject to this Act, administrative bylaws may be made pursuant to section 13 for the following purposes:
- (a) prescribing the seal of the association;
  - (b) providing for the execution of documents by the association;
  - (c) respecting the management of the property of the association;
  - (d) respecting the banking and financial dealings of the association;
  - (e) fixing the fiscal year of the association and providing for the audit of the accounts and transactions of the association;
  - (f) respecting the making of grants for any purpose that:
    - (i) advances scientific knowledge or pharmaceutical education;
    - (ii) maintains or improves the standards of practice by pharmacists;
    - (iii) supports and encourages public information and interest in the past and present role of pharmacists in society; or
    - (iv) is not inconsistent with this Act or the bylaws;
  - (g) prescribing the organization, powers and procedures of the council and regulating the council in the performance of its duties;
  - (h) providing for the receipt, management and investment of contributions, donations or bequests;
  - (i) regulating joint participation by the association with any educational institution or any person, group, association, organization or body corporate having goals or objectives similar to those of the association;
  - (j) prescribing the number of elected councillors and the terms of office of elected councillors;

- (k) governing procedures for the election of elected councillors;
  - (l) prescribing the conditions disqualifying elected councillors and the immediate past president from sitting on the council, and governing the filling of vacancies of elected councillors;
  - (m) respecting the holding and procedures of meetings of the council and annual or special meetings of the association;
  - (n) prescribing the duties of councillors and officers;
  - (o) prescribing remuneration and reimbursement for expenses for elected councillors, councillors who hold office pursuant to clause 7(2)(b) or (c), officers and committee members;
  - (p) establishing any committees that the council or association considers necessary and prescribing the manner of election or appointment of members to those committees and the duties of the committees;
  - (q) prescribing the officers of the association and governing the procedure for the appointment or election of those officers;
  - (r) prescribing the appointment, term of office, remuneration, and duties of the registrar, inspectors and employees of the association;
  - (s) prescribing the amounts of registration, licensing, permit and other fees payable to the association, the times of payment and the penalties for late payment;
  - (t) prescribing any other thing that is necessary for the effective administration of the association.
- (2) Subject to this Act, regulatory bylaws may be made pursuant to section 13 for the following purposes:
- (a) prescribing qualifications, standards and tests of competency for:
    - (i) the registration of persons or any category of persons as members or interns; and
    - (ii) the issuing of licences;
  - (b) prescribing the requirements for the issuing of permits;



- (c) prescribing:
  - (i) procedures governing the registration of persons or any category of persons as members or interns;
  - (ii) procedures governing the issuing of licences and permits; and
  - (iii) the terms and conditions of licences and permits;
- (d) providing for a code of professional ethics;
- (e) setting standards of professional conduct, competency and proficiency of members;
- (f) establishing categories of membership, and prescribing the rights and privileges of each category;
- (g) governing:
  - (i) examinations for registration purposes; and
  - (ii) approval of education programs for purposes of registration and prescribing the terms and conditions for initial or continued approval of those programs;
- (h) setting requirements for maintenance of memberships, licences and permits;
- (i) setting standards regarding the manner and method of practice of members;
- (j) regulating the use of terms or designations by members and proprietors with respect to their practice;
- (k) defining activities that constitute a conflict of interest and prohibiting the participation of members in those activities;
- (l) regulating the advertising of drugs or professional services by members and proprietors;
- (m) defining the area of a premises to which a permit applies;
- (n) prescribing procedures for:
  - (i) the review, investigation and disposition by the complaints committee of complaints alleging that:
    - (A) a member is guilty of professional misconduct or professional incompetence; or
    - (B) a proprietor is guilty of proprietary misconduct;

- (ii) hearings by the discipline committee of complaints alleging that:
  - (A) a member is guilty of professional misconduct or professional incompetence; or
  - (B) a proprietor is guilty of proprietary misconduct;
- (iii) reviews pursuant to subsection 21(4);
- (iv) appeals pursuant to section 41;
- (o) prescribing the records to be kept, returns to be made and information to be furnished with respect to proprietary pharmacies and the practice of members and providing for the examination and audit of those records;
- (p) governing the reinstatement of a member who has been expelled;
- (q) governing the reissuance of a proprietor's permit that has been revoked;
- (r) prescribing the circumstances under which members are required to attend re-entry education programs and courses, and approving programs and courses for that purpose;
- (s) setting standards for continuing education and the participation of members in continuing education;
- (t) establishing a program for the assessment of the competency of members;
- (u) governing the delegation of functions by a member and prescribing the standards, terms and conditions of that delegation;
- (v) relating to the conditions under which drugs must be prepared, compounded, sold, stored or dispensed in a proprietary pharmacy and specifying the period during which a prescription is a valid order;
- (w) respecting the reporting and publication of decisions and reports of the council and committees;
- (x) respecting the establishment and closure of proprietary pharmacies;
- (y) respecting substance abuse programs for members;
- (z) prescribing the number of members required to demand a special meeting of the association;
- (aa) prescribing the minimum amount of liability protection that members and proprietors are required to obtain or providing for a scheme of insurance to indemnify members for professional liability and respecting the payment or remittance of premiums in connection with it;

- (bb) prescribing requirements and standards for the operation of a proprietary pharmacy, including, but not limited to:
  - (i) use and supervision of support persons;
  - (ii) equipment and supplies to be used in the operation of a proprietary pharmacy;
  - (iii) physical requirements for premises;
  - (iv) name, signage and other forms of public identification of a proprietary pharmacy;
- (cc) relating to the responsibilities of managers and proprietors of proprietary pharmacies;
- (dd) prescribing the circumstances under which a proprietary pharmacy may be operated in the absence of a licensed pharmacist;
- (ee) prescribing specific drugs in the drug schedules;
- (ff) prescribing levies to be paid by members and proprietors and exempting members and proprietors from all or part of that levy;
- (gg) prescribing the service of notices and the types of notice that may be served electronically;
- (hh) prescribing any other matters considered necessary for the better carrying out of this Act.

**Filing of bylaws**

15(1) The association shall file with the minister two copies, certified by the registrar to be true copies, of:

- (a) all regulatory bylaws; and
- (b) any amendment to a regulatory bylaw together with two certified copies of the regulatory bylaw to which the amendment relates.

(2) Where the minister does not advise the association in writing within 90 days of receiving copies of the regulatory bylaw or amendment that the minister approves the regulatory bylaw or amendment, the regulatory bylaw or amendment is deemed not to be approved.

(3) Where the minister approves a regulatory bylaw or an amendment to a regulatory bylaw, the minister shall file with the Department of Justice two copies, certified by the registrar to be true copies, of the regulatory bylaw or amendment.

(4) Where an amendment to a regulatory bylaw is filed pursuant to subsection (3), the minister shall file two copies, certified by the registrar to be true copies, of the regulatory bylaw with the amendment.

(5) Within 30 days after administrative bylaws or amendments to administrative bylaws are made, the council shall file with the Department of Justice two copies, certified by the registrar to be true copies, of all administrative bylaws and all amendments made to those bylaws.

(6) Where an amendment to an administrative bylaw is filed pursuant to subsection (5), the council shall also file two copies, certified by the registrar to be true copies, of the administrative bylaw with the amendment.

(7) An administrative bylaw or an amendment to an administrative bylaw that is not filed within the time required by subsection (5) is deemed to be revoked on the expiration of the 30 days mentioned in subsection (5).

**Register**

16(1) In accordance with the bylaws, the council shall keep a register in which is recorded:

- (a) the name, address and category of registration of every member;
- (b) the name and address of every intern; and
- (c) the name and address of every proprietary pharmacy, its manager and proprietor.

(2) The register is to be:

- (a) kept at the head office of the association; and
- (b) open for inspection by all persons, without fee, during normal office hours of the association.

(3) A certificate purporting to be signed by the registrar and stating that a named person was or was not, on a specified day or during a specified period, a member, a licensed pharmacist, an intern, a proprietor, a manager or a member whose licence is suspended or a proprietor whose permit is suspended according to the register, or an extract from the register that is certified by the registrar, is admissible in evidence as proof, in the absence of evidence to the contrary, of its contents without proof of the registrar's appointment or signature.

REGISTRATION, LICENCES AND PERMITS

**Admission**

17(1) The council, in accordance with this Act and the bylaws, may register persons as members or interns.

(2) The council, in accordance with this Act and the bylaws, may issue licences to members.

**Registration of members**

**18(1)** The council may register as a member, and issue a licence to, a person who produces evidence establishing to the satisfaction of the council that the person:

(a) either:

(i) has a bachelor's degree in pharmacy from the University of Saskatchewan or other educational institution recognized by the council; or

(ii) in the case of a person who is registered as a pharmacist in a jurisdiction outside Saskatchewan that is recognized by the council, is a member in good standing in that jurisdiction;

(b) has successfully completed any period of practical training in accordance with the bylaws;

(c) has successfully completed any examination prescribed in the bylaws;

(d) has paid the prescribed fees; and

(e) has complied with the bylaws with respect to registration.

(2) The council may register a person as an intern for the purpose of training that person as a pharmacist if the person:

(a) has complied with the bylaws with respect to registration; and

(b) has paid the prescribed fees.

(3) Notwithstanding subsection (1), the council may register a physician, who is licensed pursuant to *The Medical Profession Act, 1981*, as a member and issue a licence to the physician, in the circumstances and under the terms and conditions specified in the bylaws, if the physician:

(a) has complied with the bylaws with respect to registration; and

(b) has paid the prescribed fees.

**Application for permit**

**19(1)** The council may issue a permit to operate a proprietary pharmacy to a person who meets the requirements of subsection (2) and who produces evidence establishing to the satisfaction of the council that the person:

(a) is a member;

(b) is a corporation, the majority of the directors of which are members, and that one of those directors is the manager of the pharmacy;

(c) is a co-operative incorporated, continued or registered pursuant to *The Co-operatives Act, 1989*; or

(d) is an association within the meaning of *The Mutual Medical and Hospital Benefit Associations Act*.

(2) An applicant for a permit must:

(a) submit an application on the form prescribed by the council;

(b) pay the application fee; and

- (c) provide any further information or material requested by the council.
- (3) Where on reasonable grounds the council is of the opinion that a permit issued pursuant to subsection (1) should be restricted, the council may issue a permit subject to any terms and conditions that it considers appropriate.
- (4) Where the council refuses to issue a permit or issues a permit pursuant to subsection (3), the council shall notify the applicant in writing of its decision and the reasons for the decision.

**Permits**

- 20(1) Every proprietary pharmacy permit is to contain the name of the proprietor of the pharmacy, the name and address of the pharmacy, and the name of the licensed pharmacist who is the manager of the pharmacy for which the permit is issued.
- (2) If the licensed pharmacist named as the manager of a proprietary pharmacy in a permit ceases to be the manager, the proprietor shall, not later than five days prior to the change, provide the registrar with the name of the licensed pharmacist who is to replace that person as the manager.
- (3) A permit is valid and effective for the period specified in the permit.
- (4) Every proprietor to whom a proprietary pharmacy permit is issued shall comply with the terms and conditions contained in the permit.
- (5) A permit is not transferable.
- (6) Every proprietor shall display the permit that has been issued for that proprietary pharmacy in a place on the proprietary pharmacy premises where it is conspicuous to the public.
- (7) Where any of the information mentioned in subsection (1) changes, the council, in its discretion, may:
  - (a) require that an application for a new permit be submitted; or
  - (b) amend the permit originally issued.

**Delegation and appeal**

21(1) The council may delegate to the registrar the power to do any of the following:

- (a) register persons as members;
- (b) issue licences to members;
- (c) register persons as interns;
- (d) issue or amend permits.

(2) Where a power is delegated pursuant to this section, the exercise of that power by the registrar is deemed to be an exercise of the power by the council.

(3) The council may impose any terms and conditions that it considers appropriate on a delegation of its powers.

(4) A person who is aggrieved by a decision of the registrar made pursuant to a delegated power may apply to the council to review that decision.

(5) On a review pursuant to subsection (4), the council shall hear the review and may:

- (a) direct the registrar to exercise the power in a manner that the council considers appropriate; or
- (b) confirm the registrar's decision.

(6) On a review pursuant to subsection (4), the person aggrieved by the decision of the registrar has the right to appear in person before the council in support of the application.

(7) The council shall cause the applicant to be informed in writing of its decision regarding the review.

**PROHIBITION****Protection of title**

22(1) No person other than a member shall use the title "pharmacist", "pharmaceutical chemist", "druggist", "chemist and druggist", "apothecary" or any word or designation, abbreviated or otherwise, to imply that the person is a member.

(2) No person other than a member who has been issued a licence shall use the title "licensed pharmacist" or any word, title or designation, abbreviated or otherwise, to imply that the person has been issued a licence pursuant to this Act.

(3) No person other than an intern working under the supervision of a licensed pharmacist shall use the title "pharmacist intern" or any word, title, or designation, abbreviated or otherwise, to imply that the person is an intern.

**Prohibited practice and exceptions**

**23**(1) No person other than a licensed pharmacist or intern practising under the supervision of a licensed pharmacist, may prepare, compound, dispense or sell drugs in Saskatchewan.

(2) Subsection (1) does not apply to:

- (a) the practice of any profession or occupation by any person practising pursuant to the authority of any other Act;
- (b) a person who is authorized pursuant to the *Food and Drugs Act* (Canada) or the *Narcotic Control Act* (Canada) to sell drugs to a pharmacist or practitioner;
- (c) a person selling feed within the meaning of the *Feeds Act* (Canada), if that Act and the regulations pursuant to that Act are complied with;
- (d) a person who is a wholesale dealer, who sells drugs in the ordinary course of wholesale dealing, if the drugs:
  - (i) are in sealed manufacturers' packages; and
  - (ii) are sold only to a person who is authorized to sell drugs;
- (e) a person selling poisons registered pursuant to the *Pest Control Products Act* (Canada);
- (f) a person selling insecticides, herbicides or fungicides used for agricultural or horticultural purposes;
- (g) a person who sells a proprietary medicine as defined pursuant to the regulations pursuant to the *Food and Drugs Act* (Canada), if the sale of the proprietary medicine does not contravene the drug schedules pursuant to this Act;
- (h) a person who is a member of the Canadian Armed Forces who is carrying out duties as a pharmacist and whose practice is confined to a Canadian Armed Forces Base.

**DISCIPLINE****Professional incompetence**

**24** Professional incompetence is a question of fact, but the display by a member of:

- (a) a lack of knowledge, skill or judgment; or
- (b) a disregard for the welfare of members of the public served by the profession;

of a nature or to an extent that demonstrates that the member is unfit to continue in the practice of the profession is professional incompetence within the meaning of this Act.



**Professional misconduct**

**25** Professional misconduct by a member is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, is professional misconduct within the meaning of this Act if:

- (a) it is harmful to the best interests of the public or the members;
- (b) it tends to harm the standing of the profession;
- (c) it is a breach of this Act, the regulations or the bylaws or any other Act or Act of the Parliament of Canada relating to the preparing, compounding, dispensing, storing or selling of drugs;
- (d) it is a failure to comply with an order of the complaints committee, the discipline committee or the council; or
- (e) it is a failure to provide an inspector with any information reasonably required by the inspector to conduct an inspection pursuant to this Act.

**Proprietary misconduct**

**26** Proprietary misconduct by a proprietor is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, is proprietary misconduct within the meaning of this Act if:

- (a) it is harmful to the best interests of the public or the members;
- (b) it tends to harm the standing of the profession;
- (c) it is a breach of this Act, the regulations or the bylaws or any other Act or Act of the Parliament of Canada relating to the preparing, compounding, dispensing, storing or selling of drugs;
- (d) it is a failure to comply with an order of the complaints committee, the discipline committee or the council;
- (e) it encourages a member or proprietor to breach this Act, the regulations or the bylaws; or
- (f) it is a failure to provide an inspector with any information reasonably required by the inspector to conduct an inspection pursuant to this Act.

**Complaints committee**

**27(1)** The complaints committee is established consisting of at least three persons appointed by the council, including an elected councillor to be chairperson and at least one licensed pharmacist who is not a councillor.

(2) No member of the discipline committee is eligible to be a member of the complaints committee.

**Investigation**

**28(1)** Where the complaints committee is requested by the council to consider a complaint or is in receipt of a written complaint alleging that a member is guilty of professional misconduct or professional incompetence, or that a proprietor is guilty of proprietary misconduct, the committee shall:

- (a) review the complaint; and
- (b) investigate the complaint by taking any steps it considers necessary, including summoning before it the member or proprietor whose conduct is the subject of the complaint.

(2) On completion of its investigation, the complaints committee shall make a written report to the discipline committee recommending:

- (a) that the discipline committee hear and determine the formal complaint set out in the written report; or
- (b) that no further action be taken with respect to the matter under investigation.

(3) The formal complaint set out in a written report made pursuant to clause (2)(a) may relate to any matter disclosed in the complaint received pursuant to subsection (1) or the investigation conducted pursuant to subsection (1).

(4) The complaints committee shall provide, or cause the registrar to provide, a copy of a written report made pursuant to clause (2)(b) to:

- (a) the council;
- (b) the person, if any, who made the complaint; and
- (c) the member or proprietor whose conduct is the subject of the complaint.

#### **Search and seizure**

**29(1)** In this section, “**judge**” means a judge of the Provincial Court of Saskatchewan.

(2) Every member or proprietor and every person who keeps any of a member's or proprietor's records or other property shall comply with a demand of an inspector, or a person designated by the council, to produce any of the member's or proprietor's records or other property that the inspector or the person designated by the council reasonably believes are required for the purposes of an investigation pursuant to this Act.

(3) On an *ex parte* application by the association, a judge may make an order described in subsection (4) where he or she is satisfied by the sworn evidence of an inspector or a person designated by the council that the person believes, on reasonable grounds, that:

- (a) a member or proprietor whose records or other property have been demanded pursuant to subsection (2), or a person who keeps records or other property of that member or proprietor, has:
  - (i) refused to comply with a demand pursuant to subsection (2); or
  - (ii) failed to comply with a demand pursuant to subsection (2) within a reasonable time following the demand; and
- (b) records or other property that are the subject of a demand pursuant to subsection (2):
  - (i) are required for the purposes of an investigation pursuant to this Act; and
  - (ii) are likely to be found in a specified place.

(4) An order pursuant to subsection (3) authorizes the person named in the order, together with any peace officer that the person may call on for assistance, to enter at any reasonable time the place named in the order and every part of the place named in the order and of the premises connected with that place to:

- (a) examine the place and connected premises; and
- (b) search for, seize and take possession of the member's or proprietor's records and other property

demanded pursuant to subsection (2).

(5) Where any member's or proprietor's records or other property are produced pursuant to subsection (2) or seized pursuant to an order made pursuant to subsection (3), the inspector or person designated by the council to whom the records or other property were produced or who seized the records or other property or a member of the complaints committee may:

(a) make or cause to be made one or more copies of the records or other property produced or seized and return the originals to the person who produced them or from whom they were seized; or

(b) retain any of the member's or proprietor's records or other property and dispose of them in accordance with the directions of the chairperson of the discipline committee.

(6) Every entry and search pursuant to this section is to be made during normal business hours unless the judge who issues the order authorizes the entry and search at another time.

(7) A copy or extract of a member's or proprietor's records or other property certified by a person mentioned in subsection (5) who made the copy or extract is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original record or property and its contents without proof of the signature or capacity of the person purporting to have signed the record.

**Suspension**

**30(1)** Where the complaints committee is of the opinion that, on the basis of the allegations or the nature of the case, the member's licence should be suspended, the member should be prohibited from performing any procedure or the proprietor's permit should be suspended pending the outcome of the investigation or hearing, the complaints committee may, with the prior approval of the council, apply to a judge of the court for an order:

(a) suspending the licence of a member whose conduct is the subject of an investigation pursuant to subsection 28(1) or against whom a formal complaint has been made pursuant to subsection 28(2);

(b) temporarily prohibiting a member described in clause (a) from performing any specified work or practice; or

(c) suspending the permit of a proprietor whose conduct is the subject of an investigation pursuant to subsection 28(1) or against whom a formal complaint has been made pursuant to subsection 28(2).

(2) An order of suspension or prohibition is not to extend past the earliest of:

(a) 90 days from the date of the order;

(b) the date of a report of the complaints committee made pursuant to clause 28(2)(b);

(c) where the discipline committee finds that a member is not guilty of professional misconduct or professional incompetence, the day of its decision;

(d) where the discipline committee finds that a proprietor is not guilty of proprietary misconduct, the day of its decision;

(e) where the discipline committee finds that a member is guilty of professional misconduct or professional incompetence, the day that an order is made pursuant to section 34; or

(f) where the discipline committee finds that a proprietor is guilty of proprietary misconduct, the day that an order is made pursuant to section 35.

**Discipline**

**31(1)** The discipline committee is established consisting of:

(a) a minimum of four licensed pharmacists, at least two of whom shall be elected councillors; and

(b) one appointed councillor.

(2) No member of the complaints committee is eligible to be appointed as a member of the discipline committee.

(3) Subject to this Act and the bylaws, the discipline committee may make rules regulating its business and procedure.

### **Discipline hearing**

**32(1)** Where a report of the complaints committee recommends that the discipline committee hear and determine a formal complaint, the registrar shall, at least 14 days before the date the discipline committee is to sit:

(a) send a copy of the formal complaint to the member or proprietor whose conduct is the subject of the hearing; and

(b) serve notice on the member or proprietor whose conduct is the subject of the hearing of the date, time and place of the hearing.

(2) The complaints committee shall prosecute or direct the prosecution of the complaint, but its members shall not participate in any other manner in the hearing of the complaint except as witnesses when required.

(3) The discipline committee shall hear the complaint and shall determine whether or not the member is guilty of professional misconduct or professional incompetence, or the proprietor is guilty of proprietary misconduct, notwithstanding that the determination of a question of fact may be involved, and the discipline committee need not refer any question to a court for adjudication.

(4) The discipline committee may accept any evidence that it considers appropriate and is not bound by rules of law concerning evidence.

(5) The discipline committee and the complaints committee may employ, at the expense of the association, any legal or other assistance that it considers necessary.

(6) The member or proprietor whose conduct is the subject of the hearing may be represented by counsel at that member's or proprietor's expense.

(7) The testimony of witnesses is to be under oath or affirmation administered by the chairperson of the discipline committee.

(8) At a hearing by the discipline committee, there is to be full right:

(a) to examine, cross-examine and re-examine all witnesses; and

(b) to present evidence in defence and reply.

(9) On application and payment of the appropriate fee, the local registrar of the court at any judicial centre shall issue writs of *subpoena ad testificandum* or *subpoena duces tecum* to:

(a) a member or proprietor whose conduct is the subject of a hearing pursuant to this Act;

(b) a member of the complaints committee;

(c) a member of the discipline committee.

(10) Where a writ issued pursuant to subsection (9) is disobeyed, the proceedings and penalties are those applicable in civil cases in the court.

(11) Where the member or proprietor whose conduct is the subject of the hearing fails to attend the hearing, the discipline committee, on proof of service of the notice mentioned in subsection (1), may proceed with the hearing in

the member's or the proprietor's absence.

(12) If, during the course of a hearing, the evidence shows that the member or proprietor whose conduct is the subject of the hearing may be guilty of a charge different from or in addition to any charge specified in the formal complaint, the discipline committee shall notify the member or proprietor of that fact.

(13) If the discipline committee proposes to amend, add to or substitute the charge in the formal complaint, the discipline committee shall adjourn the hearing for any period that the discipline committee considers sufficient to give the member or proprietor an opportunity to prepare a defence to the amended formal complaint, unless the member or proprietor consents to continue the hearing.

(14) The person, if any, who made the complaint pursuant to section 28:

(a) is to be advised orally or in writing by the registrar of the date, time and place of the hearing; and

(b) subject to subsection (16), is entitled to attend the hearing.

(15) Subject to subsection (16), the discipline committee shall conduct all hearings in public.

(16) The discipline committee may exclude members of the public and the person who made the complaint from any part of the hearing when the committee is of the opinion that evidence brought in the presence of the person or persons to be excluded will unduly violate the privacy of a person other than the member or proprietor whose conduct is the subject of the hearing.

### **Temporary suspensions**

**33**(1) Where the council is of the opinion that a danger to the public exists, the council may suspend, for a period not exceeding 30 days, the licence of a member against whom a complaint has been made or a formal complaint issued, without conducting a hearing or giving notice to the member.

(2) Where the council is of the opinion that a danger to the public exists, the council may suspend, for a period not exceeding 30 days, the permit of a proprietor against whom a complaint has been made or a formal complaint issued, without conducting a hearing or giving notice to the proprietor.

(3) A member or proprietor may appeal a decision of the council pursuant to subsection (1) or (2) to the court by serving the registrar with a notice of appeal and filing the notice with the local registrar of the court.

### **Disciplinary powers - members**

**34**(1) Where the discipline committee finds a member guilty of professional misconduct or professional incompetence, it may make one or more of the following orders:

(a) an order that the member be expelled from the association and that the member's name be struck from the register;

(b) an order that the member's licence be suspended for a specified period;

(c) an order that the member's licence be suspended pending the satisfaction and completion of any conditions specified in the order;

(d) an order that the member may continue to practise only under conditions specified in the order, which may include, but are not restricted to, an order that the member:

(i) not do specified types of work or practice;

- (ii) successfully complete specified classes or courses of instruction;
  - (iii) obtain medical treatment, counselling or both;
  - (e) an order reprimanding the member;
  - (f) any other order that the discipline committee considers just.
- (2) In addition to any order made pursuant to subsection (1), the discipline committee may order:
- (a) that the member pay to the association, within a fixed period:
    - (i) a fine in a specified amount not exceeding \$5,000; and
    - (ii) the costs of the investigation and hearing into the member's conduct and related costs, including the expenses of the complaints committee and the discipline committee and costs of legal services and witnesses; and
  - (b) where a member fails to make payment in accordance with an order pursuant to clause (a), that the member's licence be suspended.
- (3) The registrar shall send a copy of an order made pursuant to this section to the member whose conduct is the subject of the order and to the person, if any, who made the complaint.
- (4) Where a member is expelled or a member's licence is suspended, the registrar shall strike the name of the member from the register or indicate the suspension on the register, as the case may be.

**Disciplinary powers - proprietors**

35(1) Where the discipline committee finds a proprietor guilty of proprietary misconduct, it may make one or more of the following orders:

- (a) an order that the proprietor's permit be revoked and that the pharmacy's name be struck from the register;
- (b) an order that the proprietor's permit be suspended for a specified period;
- (c) an order that the proprietor's permit be suspended pending the satisfaction and completion of any conditions specified in the order;
- (d) an order that the proprietor's permit be subject to the terms and conditions specified in the order, which may include, but are not restricted to an order:
  - (i) limiting the services that may be provided, including the preparing, compounding, dispensing and selling of certain drugs;
  - (ii) directing the proprietor to regularly submit specified reports to a person named by the discipline committee;
  - (iii) limiting the activities the person can carry out as a proprietor or as a director of a corporation that is a proprietor;
- (e) an order prohibiting the proprietor from serving as a director of a corporation that operates a pharmacy;
- (f) an order reprimanding the proprietor;
- (g) any other order that the discipline committee considers just.

(2) In addition to any order made pursuant to subsection (1), the discipline committee may order:

- (a) that the proprietor pay to the association, within a fixed period:
  - (i) a fine in a specified amount not exceeding \$15,000; and
  - (ii) the costs of the investigation and hearing into the proprietor's conduct and related costs, including the expenses of the complaints committee and the discipline committee and costs of legal services and witnesses; and
- (b) where a proprietor fails to make payment in accordance with an order pursuant to clause (a), that the proprietor's permit be suspended.

(3) The registrar shall send a copy of an order made pursuant to this section to the proprietor whose conduct is the subject of the order and to the person, if any, who made the complaint.

(4) Where a proprietor's permit is revoked or suspended, the registrar shall strike the name of the proprietary pharmacy from the register or indicate the suspension on the register, as the case may be.

**Effect of expulsion, revocation or suspension**

36(1) If a member is expelled from the association or a member's licence is suspended, that member's rights and privileges as a member are removed for the period during which he or she is expelled or his or her licence is suspended.



(2) If the permit for a proprietary pharmacy is revoked or suspended, that pharmacy must be closed for the period during which the permit remains revoked or suspended.

**Criminal conviction**

**37** The discipline committee may, by order, impose any penalty described in section 34 or 35 that to it seems just where:

- (a) the member or proprietor has been convicted of an indictable offence pursuant to the *Criminal Code*, the *Narcotic Control Act* (Canada) or the *Food and Drugs Act* (Canada);
- (b) a report of the complaints committee is made to the discipline committee respecting the conviction mentioned in clause (a);
- (c) the discipline committee has given the member or proprietor an opportunity to be heard; and
- (d) the discipline committee finds that:
  - (i) the conduct of the member giving rise to the conviction constitutes professional misconduct; or
  - (ii) the conduct of the proprietor giving rise to the conviction constitutes proprietary misconduct.

**Duty to report**

**38** Where the complaints committee in its investigation pursuant to section 28 or the discipline committee at the conclusion of its hearing pursuant to section 32 believes that the member or proprietor whose conduct is the subject of the investigation or hearing may be guilty of a criminal offence, the committee may immediately discontinue its investigation or hearing, as the case may be, and shall make a report of its findings to:

- (a) the president of the association; and
- (b) the Deputy Minister of Justice.

**Suspension**

**39** On the application of the council, a judge of the court may direct that a member's licence be suspended or a proprietor's permit be suspended pending the disposition of a criminal charge where:

- (a) a criminal charge is laid against the member or proprietor; and
- (b) the member or proprietor has applied to the court for a stay of any disciplinary proceedings against the member or proprietor.

**Report to council**

**40**(1) The discipline committee shall submit a written report of its decision to the council.

(2) The council may inform a member's employer of an order made against that member where that member is found guilty of professional misconduct or professional incompetence.

**Appeal of discipline committee order**

**41**(1) A member or proprietor may appeal an order of the discipline committee made pursuant to section 34 or 35 to the council.

- (2) An appeal pursuant to this section may be made by serving the registrar with a notice of appeal within 30 days of the order.
- (3) On hearing an appeal, the council may dismiss the appeal or vary the order of the discipline committee.
- (4) A member or proprietor may appeal an order of the council made pursuant to this section to a judge of the court, and section 42 applies with any necessary modification.

**Review by court**

**42(1)** A member or proprietor may appeal the decision or any order of the discipline committee to a judge of the court by serving the registrar with a notice of appeal and filing the notice with the local registrar within 30 days of the decision or order where:

- (a) the member has been found guilty of professional misconduct or professional incompetence by the discipline committee pursuant to section 32;
  - (b) the member is subject to an order of the discipline committee pursuant to section 34 or 37;
  - (c) the proprietor has been found guilty of proprietary misconduct by the discipline committee pursuant to section 32; or
  - (d) the proprietor is subject to an order of the discipline committee pursuant to section 35 or 37.
- (2) An appellant shall set out the grounds of appeal in a notice of appeal mentioned in subsection (1).
  - (3) On receipt of a notice of appeal, the registrar shall file with the local registrar a true copy of:
    - (a) the formal complaint and notice served pursuant to section 32 or the report of the complaints committee pursuant to section 37;
    - (b) the transcript of the evidence presented to the discipline committee;
    - (c) the exhibits received in evidence by the discipline committee; and
    - (d) the decision and order of the discipline committee.
  - (4) The appellant or the appellant's solicitor or agent may obtain from the registrar a copy of the documents filed pursuant to subsection (3) on payment of the costs of producing them.
  - (5) On hearing an appeal the judge may:
    - (a) dismiss the appeal;
    - (b) quash the finding of guilt;
    - (c) direct a new hearing or further inquiries by the discipline committee;
    - (d) vary the order of the discipline committee; or
    - (e) substitute his or her own decision for the decision appealed from.
  - (6) The judge may make any order as to costs that he or she considers appropriate.

**Effect of appeal**

**43** The commencement of an appeal pursuant to section 33, 41 or 42 does not stay the effect of the decision or order appealed from, but on five days' notice to the registrar, the appellant may apply to the court for a stay of the decision or order pending the disposition of the appeal.

**Reinstatement - members**

**44**(1) A person who has been expelled as a member may apply to the council for reinstatement.

(2) Subject to the bylaws, on receipt of an application pursuant to subsection (1), the council shall:

- (a) review the application; and
- (b) investigate the application by taking any steps it considers necessary.

(3) On completion of its investigation, the council may:

- (a) where it is satisfied that the person's subsequent conduct and any other facts warrant reinstatement, order that the person be reinstated as a member on any terms and conditions that the council considers appropriate; or
- (b) by order, refuse to reinstate the person.

(4) Where, on an application pursuant to subsection (1), the council refuses to reinstate the person as a member, the person, within 30 days after the date of the order, may appeal the order of the council to a judge of the court, and the judge may allow or disallow the appeal.

(5) On an appeal pursuant to subsection (4), the judge shall consider:

- (a) the proceedings before the council on the application for reinstatement;
- (b) the past record of the appellant as shown by the books and records of the association; and
- (c) the evidence taken before the council and any committee that dealt with the expulsion and application for reinstatement and the report of that committee.

(6) A person whose application for reinstatement is refused or whose appeal of a refusal is dismissed may make another application for reinstatement, based on new information, at any time.

**Permit reissuance**

**45**(1) A proprietor whose permit has been revoked may apply to the council to reissue the permit.

(2) Subject to the bylaws, on receipt of an application pursuant to subsection (1), the council shall:

- (a) review the application; and
- (b) investigate the application by taking any steps it considers necessary.

(3) On completion of its investigation, the council may:

- (a) where it is satisfied that the proprietor's subsequent conduct and any other facts warrant reissuance, order that the proprietor's permit be reissued on any terms and conditions that the council considers appropriate; or

- (b) by order, refuse to reissue the permit.
- (4) Where, on an application pursuant to subsection (1), the council refuses to reissue the permit, the proprietor, within 30 days after the date of the order, may appeal the order of the council to a judge of the court, and the judge may allow or disallow the appeal.
- (5) On an appeal pursuant to subsection (4), the judge shall consider:
  - (a) the proceedings before the council on the application for reissuance;
  - (b) the past record of the appellant as shown by the books and records of the association; and
  - (c) the evidence taken before the council and any committee that dealt with the revocation and application for reissuance and the report of that committee.
- (6) A proprietor whose application for reissuance of a permit is refused or whose appeal of a refusal is dismissed may make another application for reissuance, based on new information, at any time.

#### **Discipline of former members and former permit holders**

**46(1)** In sections 24 to 45:

- (a) **"member"** includes a former member; and
- (b) **"proprietor"** includes a former permit holder.
- (2) No proceeding conducted pursuant to sections 24 to 45 shall be commenced against a former member more than 24 months after the day he or she became a former member.
- (3) No proceeding conducted pursuant to sections 24 to 45 shall be commenced against a former permit holder more than 24 months after the day the permit ceased to be a valid permit.
- (4) Where a former member or former permit holder does not comply with a requirement imposed in an order pursuant to clause 34(2)(a) or 35(2)(a) within 15 days after the day on which a copy of the order is sent to the former member or former permit holder pursuant to subsection 34(3) or 35(3), the association may file a certified copy of the order with the court and enforce the order as if it were a judgment of the court.

### PHARMACIES

#### **Licensed pharmacist**

- 47(1)** Every pharmacy shall be managed by a licensed pharmacist.
- (2) Unless specified otherwise in the bylaws, there shall be a licensed pharmacist on duty at all times during which the pharmacy is open to the public.
  - (3) A licensed pharmacist shall not be the manager of more than one pharmacy unless authorized by the bylaws.

#### **Duty to inform registrar**

- 48(1)** A proprietor who ceases to operate the proprietary pharmacy named in the permit shall notify the registrar no later than five days prior to the change in operation.
- (2) Every proprietor who closes a proprietary pharmacy, for which a permit has been issued, with the intention of

discontinuing its operation shall:

- (a) immediately remove all signs and symbols relating to the operation of the pharmacy, either within or outside the premises;
  - (b) remove and dispose of all drugs according to law; and
  - (c) submit to the registrar, in writing, the information that is required by the bylaws.
- (3) Subject to this Act and the bylaws, where a proprietor is bankrupt, insolvent or makes an assignment for the benefit of creditors, the trustee in bankruptcy, liquidator or assignee, as the case may be, if authorized to continue carrying on the business, may continue the operation of the pharmacy under the supervision and management of a licensed pharmacist.
- (4) Subject to this Act and the bylaws, on the death of a proprietor, the personal representative of the deceased may continue the operation of the pharmacy under the supervision and management of a licensed pharmacist.
- (5) Every licensed pharmacist who is engaged by a trustee in bankruptcy, liquidator, assignee or personal representative to supervise and manage a proprietary pharmacy shall, not later than five days after commencing his or her duties, file with the registrar a certificate, signed by the licensed pharmacist, setting forth the name and address of the person by whom he or she was engaged and the date of the commencement of his or her duties with respect to the pharmacy.

#### **Requirements for permits, advertising and signs**

**49**(1) No person shall operate a proprietary pharmacy unless he or she is the holder of a valid permit.

(2) No person shall, with respect to any premises, use, display, advertise or list the designation "pharmacy", "dispensing department", "drug store" or any other designation, words, title or sign that implies, that is calculated to lead the public to infer, or from which the public may reasonably infer that the premises are being operated as a pharmacy, unless:

- (a) a permit has been issued for the premises or a portion of the premises; or
  - (b) the premises is a publicly operated pharmacy.
- (3) No person shall publish or cause to be published in any form or by any means an advertisement for the sale of drugs.
- (4) Subsection (3) does not apply to:
- (a) a licensed pharmacist;
  - (b) a permit holder;
  - (c) a person mentioned in subsection 23(2);
  - (d) a person who sells drugs in accordance with the drug schedules established pursuant to section 52;
  - (e) a person who publishes the advertisement at the direction of a person mentioned in clause (a), (b), (c) or (d).

#### **Inspections**

**50**(1) For the purposes of administering this Act and the bylaws, the council or any inspector may make any

inspection, investigation or inquiry that the council or the inspector considers necessary.

(2) The council may designate persons as inspectors.

(3) Every proprietor shall:

(a) cause the proprietary pharmacy for which the permit is issued to be open for inspection by the inspector at all reasonable times during the hours of operation of the proprietary pharmacy; and

(b) cause all records, specimens, drugs and equipment pertaining to the operation of the proprietary pharmacy to be available for inspection by the inspector during the times described in clause (a).

(4) An inspector shall not enter a private dwelling without an order issued pursuant to section 29, unless the occupant of the dwelling consents to the entry.

### **Required standards**

51(1) If an inspector reports to the registrar that a proprietary pharmacy does not appear to meet the standards required pursuant to this Act or the bylaws, the registrar shall, if he or she is unable to resolve the matter, refer the matter to the complaints committee.

(2) If a matter is referred to the complaints committee, the matter is to be dealt with in accordance with the procedures, pursuant to this Act and the bylaws, pertaining to professional misconduct, professional incompetence or proprietary misconduct.

## DRUGS

### **Regulations and bylaws**

52(1) The Lieutenant Governor in Council may, after consulting with the council, make regulations:

(a) establishing drug schedules;

(b) prescribing any conditions and restrictions that apply to the drug schedules;

(c) authorizing the council to make administrative or regulatory bylaws adding specific drugs to or deleting specific drugs from the drug schedules established pursuant to clause (a);

(d) prescribing the categories of practitioners who may issue a prescription, and the requirements, terms, conditions and procedures for those prescriptions;

(e) further defining "publicly operated pharmacy".

(2) The minister may request the council to amend or repeal a regulatory bylaw or to make a new regulatory bylaw if the minister is satisfied that it is necessary or advisable.

(3) Where the minister makes a request pursuant to subsection (2), the council shall be provided with the reasons for the amendment and, if appropriate, a draft of the amendment.

(4) If the council does not comply with a request pursuant to subsection (2) within 90 days after the date of the request, the minister may amend or repeal the existing regulatory bylaw or make the new regulatory bylaw in accordance with that request.

(5) A regulatory bylaw made, amended or repealed pursuant to this section comes into force when it is published in the Gazette.

(6) Where the minister makes, amends or repeals a regulatory bylaw, the minister shall file with the Department of Justice two copies of the regulatory bylaw or amendment.

(7) Where an amendment to a regulatory bylaw is filed pursuant to subsection (6), the minister shall file two copies of the regulatory bylaw with the amendment.

#### **Formulary and interchangeable pharmaceutical products**

**53** The minister shall designate in the formulary all drugs that are interchangeable pharmaceutical products.

#### **Dispensing an interchangeable pharmaceutical product**

**54** A licensed pharmacist or intern may select and dispense an interchangeable pharmaceutical product for the drug specified in the prescription, unless the practitioner prescribing the drug otherwise directs:

- (a) in his or her own handwriting, if the prescription is in writing; or
- (b) verbally, if the prescription is not in writing.

#### **Immunity - interchangeable pharmaceutical products**

**55** No action lies or shall be commenced against a licensed pharmacist, intern or practitioner by reason only that, pursuant to section 54, the licensed pharmacist or intern dispensed an interchangeable pharmaceutical product if the interchangeable pharmaceutical product dispensed was designated in the formulary as an interchangeable pharmaceutical product for the drug or drugs specified in the prescription at the time the interchangeable pharmaceutical product was dispensed.

### GENERAL

#### **Immunity**

**56** No action lies or shall be instituted against:

- (a) any councillor;
- (b) the complaints committee;
- (c) the discipline committee;
- (d) any member of any committee; or



- (e) any officer, employee or agent;

of the association for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any of them pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the bylaws or in the carrying out or supposed carrying out of any decision or order made pursuant to this Act or the bylaws or any duty imposed by this Act or the bylaws.

### **Offence and penalty**

**57(1)** Every person who contravenes section 22, 23, 49 or 60 is guilty of an offence and liable on summary conviction to a fine of:

- (a) for a first offence, not more than \$5,000;
- (b) for a second offence, not more than \$12,000; and
- (c) for each subsequent offence, not more than \$20,000.

(2) Every director or officer of a corporation who directed, authorized, permitted, assented to or participated in the commission of an offence described in subsection (1) is guilty of an offence and liable on summary conviction to a fine of:

- (a) for a first offence, not more than \$5,000;
- (b) for a second offence, not more than \$12,000; and
- (c) for each subsequent offence, not more than \$20,000.

(3) The individuals mentioned in subsection (2) are guilty of the offence whether or not the corporation has been charged with, prosecuted for or convicted of the offence.

### **Limitation of prosecution**

**58** No prosecution for a contravention of section 22, 23, 49 or 60 is to be commenced:

- (a) after the expiration of 24 months from the date of the alleged offence; and
- (b) without the consent of the Minister of Justice or the council.

### **Report of termination of employment**

**59** Any employer who terminates for cause the employment of a member shall report the termination to the association where the employer reasonably believes the cause is professional incompetence or professional misconduct.

### **Employment restriction**

**60** No proprietor shall knowingly employ or continue to employ a person who is not a licensed pharmacist to prepare, compound, dispense or sell drugs.

### **Review by Legislative Assembly**

**61(1)** One copy of every bylaw and amendment filed with the Department of Justice pursuant to section 15 is to be laid before the Legislative Assembly by the Minister of Justice in accordance with *The Tabling of Documents Act*,

1991.

(2) Where any bylaw or amendment laid before the Legislative Assembly is found by the Assembly to be beyond the powers delegated by the Legislature or in any way prejudicial to the public interest, that bylaw or amendment ceases to have any effect and is deemed to have been revoked.

#### **Record of revocation and notification**

**62(1)** Where it appears from any Votes and Proceedings of the Legislative Assembly that any bylaw or amendment has ceased to have effect, the Clerk of the Legislative Assembly shall immediately:

- (a) forward two copies of the Votes and Proceedings to the Deputy Minister of Justice; and
- (b) advise him or her that the copies are forwarded pursuant to this subsection.

(2) On receipt of the copies mentioned in subsection (1), the Deputy Minister of Justice shall immediately:

- (a) file one of the copies with the bylaw or amendment to which it relates;
- (b) forward the other copy to the association; and
- (c) advise the association that the copy is forwarded pursuant to this subsection.

#### **Annual register**

**63** On or before February 1 in each year, the association shall file with the Minister of Justice a list, certified by the registrar to be a true list, showing:

- (a) the names of all members and interns as at December 31 in the preceding year;
- (b) the addresses of the members and interns mentioned in clause (a) as shown by the records of the association;
- (c) the respective dates of admission of the members and interns mentioned in clause (a); and
- (d) the name and address of every proprietary pharmacy, its proprietor and manager.

#### **Annual report**

**64** The association shall file an annual report with the minister in the form, with the contents and in the time prescribed by the minister.

#### **Compliance**

**65** Every member, every intern and every proprietor shall comply with this Act and the bylaws.

#### **Service of notices, etc.**

**66(1)** Unless otherwise provided for in this Act or the bylaws, any notice or other document that is required to be served pursuant to this Act may be served by:

- (a) personal service made:
  - (i) in the case of an individual, on that individual;

(ii) in the case of a partnership, on any partner; or

(iii) in the case of a corporation, on any officer or director; or

(b) registered mail addressed to the last business or residential address of the person to be served shown on the register.

(2) A notice or document sent by registered mail is deemed to have been served on the seventh day following the date of its mailing, unless the person to whom it was mailed establishes that, through no fault of that person, the person did not receive the notice or document or received it at a later date.

REPEAL, TRANSITIONAL AND COMING INTO FORCE

**R.S.S. 1978, c.P-9 repealed**

**67** *The Pharmacy Act* is repealed.

**Transitional - bylaws**

**68** Except to the extent that the bylaws may be inconsistent with this Act, the bylaws in effect on the day before the coming into force of section 1 continue as the bylaws of the association.

**Transitional - council**

**69** A person who is a member of the council of the Saskatchewan Pharmaceutical Association on the day before section 1 comes into force continues as a member of the council until the earlier of:

(a) the date councillors are elected pursuant to this Act; or

(b) the date the member dies, resigns or otherwise ceases to be a councillor.

**Transitional - licences and permits**

**70** All licences and permits issued pursuant to *The Pharmacy Act* that have not been revoked or suspended on the day before section 1 comes into force continue in force until the earlier of:

- (a) the date on which the licence or permit expires; or
- (b) the date on which the licence or permit is revoked or suspended pursuant to this Act.

**Coming into force**

**71** This Act comes into force on proclamation.