

1990 - No. 657

PHARMACY ACT 1964 - REGULATION

(Miscellaneous amendments consequent on enactment
of Pharmacy (Amendment) Act 1989)

NEW SOUTH WALES



[Published in Gazette No. 123 of 5 October 1990]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Pharmacy Act 1964, has been pleased to make the Regulation set forth hereunder.

PETER COLLINS,
Minister for Health.

Commencement

1. (1) This Regulation commences on 5 October 1990, except as provided by this clause.

(2) Clause 3 commences on 1 January 1991.

Amendments commencing on 5.10.90

2. The Pharmacy Regulations are amended:

(a) by inserting after Regulation 1 the following Regulation:

Definitions

1A. In these Regulations:

"pharmacist member" means a member of the Board referred to in section 6 (2) (a) of the Act;

"the Act" means the Pharmacy Act 1964.

- (b) by omitting Regulations 3 (1), 4 (1) (c), 5 (2), 10, 21-28, 34, 37 (4), 38A and 41;
- (c) by omitting from Regulation 3 (2) (b) the words "elected pharmacist members of the Board, indicating that 1 of them shall be a pharmacist elected in accordance with section 4 (2) (aa) of the Act" and by inserting instead the words "pharmacist members";
- (d) by omitting from Regulation 6 (1) the words "members of the Board referred to in section 4 (2) (a) of the Act or the election of a member referred to in section 4 (2) (aa) of the Act" and by inserting instead the words "pharmacist members";
- (e) by omitting from Regulation 6 (1) (a) the words "or Schedule 3, as the case may require";
- (f) by omitting from Regulation 6 (2) (a) the words "or Schedule 3, as the case may require,";
- (g) by omitting Regulation 7B (1) (a) and by inserting instead the following paragraph:
 - (a) be required at an election of pharmacist members to record his or her vote for at least 5 candidates; and
- (h) by omitting Regulation 7B (2) and by inserting instead the following clause:
 - (2) Ballot-papers are to be counted, and the candidates who are elected determined, by the Returning Officer according to an optional multi-preferential system in which the first, second, third, fourth and fifth preference votes (represented by the numbers "1", "2", "3", "4" and "5", respectively, marked on the ballot-paper) are regarded as primary votes.
- (i) by omitting from Regulations 11 and 12 (b) the words "subcommittees appointed by the Board" wherever occurring and by inserting instead the words "any committee established by the Board (other than a Professional Standards Committee)";
- (j) by omitting from Regulation 14 the word "Special" and by inserting instead the words "Unless the Board otherwise determines, special";

- (k) by omitting from Regulation 15 the word "Notice" and by inserting instead the words "Unless the Board otherwise determines, notice";
- (l) by omitting from Regulation 19 the word "Every" and by inserting instead the words "Unless the Board otherwise determines, every";
- (m) by omitting from Regulation 20 the word "A" and by inserting instead the words "Unless the Board otherwise determines, a";
- (n) by omitting from Regulation 31 the words "prescribed in paragraph (e) of Regulation 34. The" and by inserting instead the words "fixed by the Board and the";
- (o) by inserting in Regulations 32 and 32A after the word "registration" wherever occurring the words "as a pharmacist";
- (p) by omitting from Regulations 35 and 35A the words "prescribed fee" wherever occurring and by inserting instead the words "fee fixed by the Board";
- (q) by omitting from Regulation 36 the words "open shop" and by inserting instead the words "a pharmacy";
- (r) by inserting in Regulation 36 after the word "Registrar" the words "in writing";
- (s) by omitting from the definition of "business" in Regulation 37 (1) the words "openshop" and by inserting instead the words "a pharmacy";
- (t) by inserting after Regulation 37 (2) (b) the following paragraph:
 - (bl) ceases to have an interest in a business;
- (u) by omitting from Regulation 37 (2) and (3) the word "seven" wherever occurring and by inserting instead the matter "14";
- (v) by inserting in Regulation 37 (2) after the word "acquisition," the word "cessation,";
- (w) by omitting from Regulation 37 (3) the matter "I" and by inserting instead the matter "J";
- (x) by omitting Regulation 37 (5) and by inserting instead the following clause:
 - (5) If a form in or to the effect of Schedule I is furnished to the Board, a copy of each of the following documents must be attached to the form if not previously furnished to the Board:
 - (a) any bill of sale relating to the business referred to in that form;

- (b) any sale agreement for the business;
 - (c) any partnership agreement for the business;
 - (d) any lease, tenancy agreement or sublease for the premises in which the business is conducted;
 - (e) any other agreement entered into in respect of that business under which any person has an interest.
- (y) by inserting after Regulation 37 the following Regulation:

Savings provision - pecuniary interests before 5.10.90

37A. (1) For the purposes of section 25 (2) (c) of the Act, an individual, a body corporate or an unincorporated body is not prevented from having a pecuniary interest (direct or indirect) in the business of a pharmacist carried on in a pharmacy if:

- (a) the interest in the business is of a kind referred to in section 25 (2) (b)-(f) as in force immediately before 5 October 1990 (the day on which that provision was repealed); and
- (b) the pecuniary interest is the same interest in the same business as the individual, body corporate or unincorporated body had immediately before 5 October 1990.

(2) Clause (1) does not apply to a person whose name has been removed at any time from the Register or who has been suspended at any time from practice as a pharmacist under the Act.

- (z) by omitting Regulation 38 and by inserting instead the following Regulation:

Advertising

38. (1) The owner of a pharmacy must cause to be displayed at or near the main entrance of the pharmacy, and adjacent to the area where dispensing is carried on, the name of the pharmacist in charge of the pharmacy followed by the words "Pharmacist in charge".

(2) A person carrying on the business of a pharmacist in a pharmacy must not

- (a) in any advertisement claim or imply professional superiority; or

- (b) advertise or cause to be advertised any warranty of satisfaction, purity of drugs or accuracy in dispensing or
- (c) advertise or otherwise hold himself or herself out to be willing, capable or entitled to give advice in the treatment of a medical condition otherwise than to the extent that the advice is part of the practice of pharmacy.
- (aa) by omitting from Regulation 39 the words "forty dollars" and by inserting instead the matter "2 penalty units";
- (ab) by inserting after Regulation 41 the following Regulation:

Dispensing by medical practitioners

41A. For the purposes of section 28 (2) (c) of the Act, a medical practitioner is not prevented from dispensing medicine in the ordinary course of medical practice if the medical practitioner has been issued with an approval number for dispensing by the Commonwealth Health Insurance Commission.

- (ac) by omitting from Schedules A, B and C the words "prescribed by Regulation 34 (c)" wherever occurring and by inserting instead the words "fixed by the Board";
- (ad) by omitting from Schedules A, B and C the words "I hereby declare that I have filled up this application in my own handwriting." wherever occurring
- (ae) by omitting from Schedule D the words "prescribed by Regulation 34" and by inserting instead the words "fixed by the Board*/I request a waiver of the restoration fee because of the reasons annexed (**delete whichever is inapplicable*)";
- (af) by omitting from item (i) in Schedule F the words "keeping open shop for the purpose of" and by inserting instead the words "at a pharmacy used for";
- (ag) by omitting from item (iii) in Schedule F the words "in open shop kept" and by inserting instead the words "in a pharmacy used";
- (ah) by omitting from item (iv) in Schedule F the words "an open shop kept" and by inserting instead the words "a pharmacy used";
- (ai) by omitting Schedule I and by inserting instead the following Schedule:

SCHEDULE I

PHARMACY ACT 1964

(Reg. 37)

NOTICE OF INTEREST IN PHARMACY

Type of interest being notified (please indicate)

- ☐ commencement of business (complete sections A, B, D and E)
- ☐ acquisition of interest or entering into possession of business (complete sections A, B, D and E)
- ☐ cessation of interest in business (complete sections A and C)
- ☐ entry into partnership in business (complete sections A, B, D and E)
- ☐ transfer of location of business (complete sections A and F)

A. *Pharmacy details*

Registered business name of pharmacy

Address of pharmacy

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Telephone:

B. *Pharmacy owners/partners*

Please show below the details for each owner or partner in the pharmacy business:

Name:

Pharmacist's registration no.:

Name:

Pharmacist's registration no.:

Name:

Pharmacist's registration no.:

If more than 3 owners or partners, please show details on an attached sheet.

C. *Cessation of interest in pharmacy*

Name of pharmacy

Address

Date of cessation of interest

Owner's name:

Registration no.:

D. *Details of purchase*

Name and address of vendor.

Please indicate cost of:

Stock	\$
Equipment, fixtures and fittings	
Goodwill (existing pharmacy only)	
Other items	_____
Total cost of purchase	_____
less liabilities	_____
Net cost of purchase	_____

Details of each partner's contributions to purchase price:

E. *Documentation*

Copies of the following documents should be provided to the Board:

1. Any sale or purchase agreement
2. Any partnership agreement
3. Any business name registration
4. Any lease, sublease, tenancy agreement
5. Any bill of sale

F. *Transfer of location of business*

Old address

New address:

Signed: Date:

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- (aj) by omitting from the heading to Schedule 2 the matter "section 4 (2) (a)" and by inserting instead the matter "(s. 6 (2) (a))";
 - (ak) by omitting from Schedule 2 the matter "4 candidates" and by inserting instead the matter "5";
 - (al) by omitting from Schedule 2 the matter "and "4" " and by inserting instead the matter ", "4" and "5" ";

- (am) by omitting from Schedule 2 the word "Four" and by inserting instead the matter "5";
- (an) by omitting Schedule 3.

Amendments commencing on 1.1.91

3. The Pharmacy Regulations are further amended:

- (a) by omitting from Regulation 38B (a) the words "After the expiration of the period of twelve months following the publication of this Regulation in the Gazette any person, corporation or body of persons, company or association of persons conducting" and by inserting instead the words "A person carrying on the business of a pharmacist in";
- (b) by omitting from Regulation 38B (a) (i) the matter relating to "Refrigerator", "Dispensing bench", "Sink" and "Heat source", king the matter contained in the last 4 paragraphs of Regulation 38B (a) (i);
- (c) by inserting after Regulation 38B the following Regulations:

Approved premises - standards to be complied with

38C. For the purposes of section 24A (4) of the Act, the following standards in respect of premises are prescribed:

- (a) at least one doorway allowing direct public access to the premises from a public thoroughfare is to be provided;
- (b) secure doors, windows and roof are to be provided;
- (c) the premises are to be equipped with a dispensing area of not less than 8 square metres (or such lesser area as the Board may approve in a particular case), being a dispensing area which:
 - (i) has adequate lighting and ventilation; and
 - (ii) has adequate heating facilities for dispensing and compounding drugs and medicines; and
 - (ii) is equipped with a stainless steel sink which has an impervious surround and is supplied with hot and cold running water, and
 - (iv) has a dispensing bench of not less than 40 cm width and of sufficient length to provide not less than 1 square metre of free working space and which has an impervious covering

- (d) a refrigerator suitable for the storage of biological and pharmaceutical products at appropriate temperatures is to be provided.

Branch pharmacies

38D. (1) A person carrying on the business of a pharmacist in a pharmacy approved by the Board under section 24A of the Act may carry on the business of a pharmacist in one, but not more than one, branch pharmacy (being premises that are the subject of a current approval of the Board in accordance with this Regulation).

(2) An application for an approval of premises as suitable for carrying on the business of a pharmacist at a branch pharmacy is required to be made to the registrar in a form approved by the Board and to be accompanied by the fee fixed by the Board.

(3) The Board may reject the application or by its order approve the premises as being suitable for carrying on the business of a pharmacist.

(4) Premises are not to be approved if:

- (a) they fail to comply with the standards set out in Regulation 38C or such other standards as the Board may determine in any particular case; and
- (b) they are operated as a branch pharmacy for more than 25 hours a week; and
- (c) they are operated on or near premises approved by the Board under section 24A of the Act; and
- (d) they fail to comply with such other conditions or requirements as the Board determines.

(5) An approval of the Board under this Regulation is in force for a period of 12 months.

(6) The Board may, by its order, revoke an approval under this Regulation at any time if the premises concerned are found not to comply with any condition or requirement referred to in clause (4).

EXPLANATORY NOTE

The Pharmacy (Amendment) Act 1989 reconstituted the Pharmacy Board as a corporation and varied its constitution, made further provision about the discipline of pharmacists and the ownership of pharmacies and amended the Pharmacy Act 1964 in other respects. The object of this Regulation is to amend the Pharmacy Regulations as a consequence of that Act and to provide the necessary detail to give effect to the Act. In particular:

- fees are removed because they are now fixed by the Board
- the form to be given to the Board when notifying an interest in a pharmacy is to include details about cessation of business and supply information about any purchase details
- standards relating to premises approved as pharmacies are prescribed.
- provision is made for the approval of premises as branch pharmacies.