

PHARMACY (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 47, 1971.

An Act to make further provisions with respect to the registration of pharmacists and the carrying on of the business of a pharmacist; for these and other purposes to amend the Pharmacy Act, 1964; and for purposes connected therewith. [Assented to, 14th December, 1971.]

BE

Pharmacy (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 47, 1971 and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Pharmacy (Amendment) Act, 1971". Short title and commencement.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. (1) The Pharmacy Act, 1964, is amended— Amendment of Act No. 48, 1964.

(a) by inserting next before the definition of "After-hours pharmacy" in section three the following new definition :— Sec. 3. (Interpretation.)

"Advertising" means advertising—

- (a) in a newspaper, magazine or other publication ;
- (b) in a circular, hand bill, poster or other notice ;
- (c) orally or by any means of producing or transmitting light or sound ; or
- (d) in any other manner.

(b) by omitting from paragraph (b) of subsection two of section four the word "Public"; Sec. 4. (Pharmacy Board of New South Wales.)

(c)

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Sec. 13.

(Qualifications for registration—New South Wales graduates.)

- (c) (i) by inserting next after subsection one of section thirteen the following new subsection :—

(1A) Notwithstanding any other provision of this section, where a person satisfies the Board that he has served in the Commonwealth of Australia for one or more continuous periods each of which was not less than one month (whether or not that continuous period or those continuous periods occurred before or after, or partly before and partly after, he received his degree in pharmacy) as an assistant to a pharmacist in charge of premises that were, during that service, approved premises, the prescribed period that would but for this subsection have been applicable to that person shall be reduced, where that continuous period or the aggregate of those continuous periods—

- (a) exceeds one-half of that prescribed period—by one-half of that prescribed period; or
- (b) does not exceed one-half of that prescribed period—by that continuous period or the aggregate of those continuous periods.
- (ii) by inserting in subsection two of the same section after the word “one” where firstly occurring the words “and in subsection (1A)”;
- (iii) by inserting next before the definition of “pharmacist” in the same subsection the following new definition :—

“approved premises” means any premises in respect of which a declaration under subsection three of this section is in force;

(iv)

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(iv) by inserting in paragraph (a) of the definition of "prescribed period" in the same subsection after the word "section" the words "or who, in addition to having received his degree in pharmacy, is the holder of a prescribed higher degree or a prescribed postgraduate diploma received from a university referred to in that paragraph";

(v) by inserting at the end of the same section the following new subsection :—

(3) The Board may, by order under the hand of the registrar published in the Gazette, declare any premises specified or described in the order to be approved premises for the purposes of this section as from the date of publication of the order or from a later date specified in the order.

(d) by omitting from paragraph (a) of section fifteen the words "paragraphs (b), (c) and (d)" and by inserting in lieu thereof the words "paragraphs (b) and (d)";

Sec. 15.
(Other foreign qualifications for registration.)

(e) by omitting subparagraph (i) of paragraph (b) of subsection one of section 17A and by inserting in lieu thereof the following subparagraph :—

Sec. 17A.
(Provisional registration.)

(i) that he has had the requisite service and experience referred to in section thirteen of this Act, or the requisite experience referred to in section fourteen of this Act, as the case may require; and;

(f) by omitting subsection five of section nineteen;

Sec. 19.
(Roll fee.)

(g) (i) by omitting from subsection three of section twenty the words "his registration be suspended" and by inserting in lieu thereof the words "he be suspended from practice as a pharmacist";

Sec. 20.
(Removal of name on account of misconduct.)

(ii) by omitting subsections six and seven of the same section;

(h)

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(h) by omitting subsection five of section 20A;

Sec. 20A.

(Refusal or suspension of registration or removal from register on ground of unfitness.)

New sec.
20AA.

(i) by inserting next after section 20A the following new section :—

Removal of name, etc., from register outside New South Wales.

20AA. (1) Where—

(a) after the commencement of the Pharmacy (Amendment) Act, 1971, a pharmacist has, while registered under this Act—

(i) ceased to be registered under the law in force relating to the registration of pharmacists in some place outside New South Wales; or

(ii) been suspended from practice as a pharmacist under the law referred to in subparagraph (i) of this paragraph,

because of some act or omission on his part; and

(b) the Board is of the opinion that it would, if there had been an inquiry under section twenty of this Act and the commission of the act or the omission had been proved thereat, have been satisfied that the pharmacist had been guilty of misconduct in a professional respect because of the act or omission,

the

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the Board may, without making such an inquiry, No. 47, 1971
 order that his name be removed from the register
 or that he be suspended from practice as a pharma-
 cist for such period, not exceeding twelve months,
 as the Board determines, or may caution or
 reprimand him.

(2) This section has effect notwithstand-
 ing anything in section twenty of this Act, but
 nothing in this section prevents any matter that may
 be, but has not been, dealt with under this section
 from being dealt with under section twenty of this
 Act if the Board, in any particular case, so decides.

(3) The provisions of subsection three of
 section twenty of this Act apply, *mutatis mutandis*,
 in respect of a person referred to in paragraph (a)
 of subsection one of this section.

- (j) (i) by omitting from subsection one of section Sec. 21.
 twenty-one the words “of this Act for the (Effect of
 removal of the name of a pharmacist from the Board's
 register or the suspension of the registration of order.)
 a pharmacist” and by inserting in lieu thereof
 the words “, or subsection one of section 20AA,
 of this Act that the name of a pharmacist be
 removed from the register or that he be
 suspended from practice as a pharmacist”;
- (ii) by omitting from subsection two of the same
 section the words “for the removal of the
 name of a pharmacist” and by inserting in lieu
 thereof the words “that the name of the
 pharmacist be removed”;
- (iii) by omitting from subsection three of the same
 section the words “for the suspension of the
 registration of a pharmacist” and by inserting
 in lieu thereof the words “that a pharmacist
 be suspended from practice”;

(k)

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Sec. 22.

(Appeal
against
orders of
the Board.)

- (k) by omitting from subsection one of section twenty-two the words "for the removal of his name" and by inserting in lieu thereof the words "that his name be removed";

New sec.
22A.Effect of
removal
from
register or
suspension
from
practice.

- (l) by inserting next after section twenty-two the following new section :—

22A. (1) Where the name of a pharmacist has, whether before or after the commencement of the Pharmacy (Amendment) Act, 1971, been removed from the register under this Act, and until his name is restored thereto, the pharmacist shall be deemed not to be registered as a pharmacist under this Act.

(2) Where a pharmacist has, whether before or after the commencement of the Pharmacy (Amendment) Act, 1971, been suspended from practice as a pharmacist under this Act for a specified period, the pharmacist shall, for the purposes of sections twenty-five, twenty-seven and twenty-eight of this Act, and not otherwise, be deemed not to be a pharmacist during that period.

(3) Where a person is suspended from practice as a pharmacist under this Act, the registrar shall enter in the register a memorandum of that fact and of the date and cause thereof.

Sec. 25.

(Persons
other than
pharmacists
not to have
interest in
pharmacists'
businesses.)

- (m) (i) by omitting subsection (2A) of section twenty-five;

- (ii) by inserting next before subsection three of the same section the following new subsections :—

(2B) Paragraphs (b) and (e) of subsection two of this section do not apply to a person whose name has been removed from the register or who has been suspended from

practice

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practice as a pharmacist under this Act, No. 47, 1971 whether the removal or suspension occurred before or after the commencement of the Pharmacy (Amendment) Act, 1971.

(2c) Where—

- (a) immediately before the commencement of the Pharmacy (Amendment) Act, 1971, a person, corporation, company or body or association of persons, referred to in paragraph (b), (d) or (e) of subsection two of this section, was entitled, by virtue of any of those paragraphs, to carry on, and was carrying on, the business of a pharmacist in open shop; and
- (b) that business ceases, after that commencement, to be carried on for any continuous period that exceeds four days,

that person, corporation, company, body or association shall not be entitled, by virtue of any of those paragraphs, to carry on that business after the expiration of that period without the approval in writing of the Minister.

(iii) by inserting next after subsection five of the same section the following new subsections :—

(6) Where—

- (a) a person's name is removed from the register or he is suspended from practice as a pharmacist under this Act; and

(b)

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- (b) he was entitled to carry on, and was carrying on, the business of a pharmacist in open shop immediately before his name was so removed or his suspension took effect,

this section shall not operate to prevent him from carrying on subject to section twenty-seven of this Act that business during the period of three months next following the day on which his name was so removed or his suspension took effect.

(7) A person who carries on the business of a pharmacist in open shop by virtue of subsection six of this section shall, during the period during which he so carries on that business, neither enter nor be in any premises in which that business is so carried on unless he has the consent of the Board to do so and he complies with any conditions imposed by the Board in relation thereto (which consent and conditions the Board is hereby authorised to give, impose and revoke from time to time).

Sec. 26.
(Pharmacist not to carry on or have a pecuniary interest in more than one business of a pharmacist.)

- (n) (i) by inserting next after subsection (3A) of section twenty-six the following new subsection :—

(3B) Where—

- (a) immediately before the commencement of the Pharmacy (Amendment) Act, 1971, a pharmacist referred to in paragraph (a) or (b) of subsection three of this section was entitled, by virtue of either of those paragraphs, to carry on, and was carrying on, the business of a pharmacist; and

(b)

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- (b) that business ceases, after that commencement, to be carried on for any continuous period that exceeds four days, No. 47, 1971

he shall not be entitled, by virtue of either of those paragraphs, to carry on that business after the expiration of that period without the approval in writing of the Minister.

- (ii) by omitting subsection five of the same section ;

- (o) by omitting subsection five of section twenty-seven ; Sec. 27.
(Pharmacist to be in charge of every open shop and dispensary.)

- (p) by omitting subsection two of section twenty-eight ; Sec. 28.
(Medicines to be dispensed only by or under the superintendence of pharmacists.)

- (q) by omitting paragraph (e) of subsection one of section thirty-eight and by inserting in lieu thereof the following paragraphs :— Sec. 38.
(Regulations.)

(e) advertising in relation to the carrying on of the business of a pharmacist in open shop, including the display of signs in or about the premises on which such a business is so carried on;

(e1) the disclosure to the Board of pecuniary interests in the business of a pharmacist carried on in open shop;

(e2)

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- (e2) the disclosure to the Board of the details of any bill of sale given in respect of the business of a pharmacist carried on in open shop or the details of any agreement entered into under which any person has a pecuniary interest in such a business so carried on.

(2) Where before the commencement of this Act a person's name has been removed from the register or he has been suspended from practice as a pharmacist under the Pharmacy Act, 1964, subsection six of section twenty-five of that Act, as inserted by this Act, applies to that person as if his name was removed at that commencement or he was suspended from practice as a pharmacist at that commencement, as the case may require.

Amendment
of Act No.
31, 1966.

(3) The Poisons Act, 1966, is amended—

Sec. 4.
(Interpre-
tation.)

- (a) by omitting from subparagraph (i) of paragraph (a) of the definition of "Pharmacy trainee" in subsection one of section four the words "paragraph (b) of subsection one of";
- (b) by omitting from the same subparagraph the words "that subsection" and by inserting in lieu thereof the words "subsection one of that section".

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