

BILL NO. 86

(as passed, with amendments)



*2nd Session, 58th General Assembly
Nova Scotia
50 Elizabeth II, 2001*

Government Bill

Pharmacy Act

CHAPTER 36 OF THE ACTS OF 2001

The Honourable Jamie Muir
Minister of Health

[First Reading](#): November 9, 2001 (LINK TO BILL AS INTRODUCED)

Second Reading: November 13, 2001

[Third Reading](#): November 20, 2001 (WITH COMMITTEE AMENDMENTS)

Royal Assent: November 22, 2001



**An Act Respecting
the Profession of Pharmacy**

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Pharmacy Act*.

2 In this Act,

- (a) "certified dispenser" means a person who was duly registered as a certified dispenser before August 1, 1962, and who has been continually registered as a certified dispenser since that date;
- (b) "College" means the Nova Scotia College of Pharmacists;
- (c) "conduct unbecoming a member" includes any conduct that, in the judgment of a hearing or investigation committee, is considered to be
 - (i) contrary to the best interests of the public or the profession, or
 - (ii) likely to harm the standing of the practice of pharmacy as a profession or to impair public confidence in the profession of pharmacy;
- (d) "Council" means the Council of the College;
- (e) "councillor" means a member of the Council;
- (f) "court" means the Supreme Court of Nova Scotia;
- (g) "device" means an article, instrument or apparatus used to
 - (i) prevent, diagnose, treat or mitigate a disease, disorder or abnormal physical or mental state or a symptom of them,
 - (ii) restore, correct or modify organic functions,
 - (iii) diagnose pregnancy, or
 - (iv) administer a drug;
- (h) "director" includes a director of a corporation, a member of the board of governors, board of management or board of directors of any other body corporate and includes the chief executive officer or chief administrative officer of a body corporate and the administrator or senior official in charge of any individual premises;
- (i) "dispensary" means an area in which prescriptions are prepared and drugs are compounded or dispensed;
- (j) "drug" means a substance or combination of substances used, for use, or represented to be for use, in or on the body of a person or animal to
 - (i) prevent, diagnose, treat or mitigate a disease, disorder or abnormal physical or mental state or a symptom of them, or
 - (ii) restore, correct or modify organic functions,and includes any substance or combination of substances included in a prescription, prescribed by the regulations, or incorporated in a schedule to this Act;
- (k) "hospital pharmacy" means a pharmacy physically situate within a hospital as defined by the *Hospitals Act* that
 - (i) dispenses drugs only to patients in the hospital for treatment and to registered out-patients for administration

on the premises, including dispensing drugs in small quantities to a discharged patient or emergency outpatient to serve the patient until the patient can obtain medication from a community pharmacy and for patients on pass or other short leaves-of-absence, and

(ii) does not dispense drugs to hospital staff, to outpatients for administration outside the hospital premises or to the general public;

(l) "inspector" means an inspector appointed pursuant to this Act;

(m) "intern" means a person who is participating in a period of practice experience, supervised by a preceptor, after having obtained a degree in pharmacy but before being registered and licensed to practise pharmacy;

(n) "member" means a member of the College;

(o) "patient records" include prescription records, medication profiles and patient profiles;

(p) "pharmacist" means a person licensed to practise pharmacy pursuant to this Act;

(q) "pharmacy" means that part of a place where drugs are sold by retail, whether by prescription or otherwise, that includes the dispensary and the professional service area;

(r) "practice of pharmacy" means the practice of pharmacy as described in this Act and includes professional services provided by a pharmacist related to the use, dispensing, compounding or distribution of drugs to or for the public and the responsibility for taking all reasonable steps to ensure pharmaceutical and therapeutic appropriateness of the therapy;

(s) "preceptor" means a person who is supervising a person's practice experience in accordance with the regulations;

(t) "prescription" means an authorization, in writing or otherwise communicated directly to a pharmacist or certified dispenser, from a person authorized by law to prescribe drugs or devices, to dispense a specified drug or device for use by a designated individual or animal;

(u) "professional service area" means that area of a pharmacy that includes active prescription records and all shelves, displays and fixtures containing scheduled drugs;

(v) "registered student" means a student in pharmacy who has not graduated and is participating in a period of practice experience supervised by the student's pharmacy program where the pharmacy program is recognized by the Council or the regulations;

(w) "Registrar" means the Registrar of the College, and includes a deputy registrar appointed by the Council;

(x) "regulations" means regulations prescribed by the Council or the Governor in Council pursuant to this Act;

(y) "scheduled drug" means a drug or device listed in the schedules to the regulations;

(z) "sell" includes barter, distribute, supply, offer, expose, advertise or possess for the purpose of selling, whether or not for consideration.

NOVA SCOTIA COLLEGE OF PHARMACISTS

3 (1) The Nova Scotia Pharmaceutical Society is continued as a body corporate under the name "Nova Scotia College of Pharmacists".

(2) The purpose of the College is to maintain and ensure standards of professional practice and accountability by pharmacists leading to optimal patient care.

(3) The duty of the College is at all times to

- (a) serve and protect the public;
- (b) exercise its powers and fulfill its responsibilities in the public interest; and
- (c) govern the practice of pharmacy in the interest of optimal health outcomes.

(4) The members of the College are those persons who are licensed pharmacists and members of the Nova Scotia Pharmaceutical Society at the coming into force of this Act and those persons who become members pursuant to this Act.

(5) Subject to this Act, the College has the capacity and the rights, powers and privileges of a natural person.

(6) The College may acquire, lease, charge or dispose of real and personal property.

4 (1) The powers of the College shall be exercised by the Council.

(2) The Council shall manage and conduct the business and affairs of the College.

(3) No action lies against any member of the Council or any committee appointed by the Council for anything done in good faith pursuant to this Act or the by-laws, regulations, policies or standards adopted pursuant to this Act.

5 (1) The Council consists of

- (a) councillors elected pursuant to this Act from among the members of the College by the members of the College;
- (b) the director of the pharmacy program at Dalhousie University;
- (c) the immediate Past President of the College; and
- (d) that number of persons who are not members of the College, appointed by the Governor in Council, equal to one third of the number of councillors elected pursuant to clause (a), where any fraction is rounded up to the next whole number, but in no case fewer than three.

(2) The Council shall by by-law establish electoral zones and fix the number of councillors to be elected from each zone.

6 (1) A councillor elected by the members or appointed by the Governor in Council serves for two years or until the councillor's successor is elected or appointed, as the case may be.

(2) An elected councillor who ceases to be a member ceases to be a councillor.

(3) A councillor appointed by the Governor in Council who becomes a member ceases to be a councillor.

(4) Councillors are eligible for re-election and re-appointment.

(5) A councillor may resign at any time upon providing the Registrar with a resignation in writing.

(6) Where a councillor appointed by the Governor in Council becomes a member or resigns, the Registrar shall request the Governor in Council to revoke the appointment and appoint a replacement.

7 (1) Every member in good standing may vote for the election of a councillor.

(2) No member may vote in an election in more than one zone.

8 (1) Where a vacancy occurs in the office of an elected councillor more than six months before the election of councillors is to be held, a special election to fill the vacancy shall be held.

(2) Where a vacancy occurs in the office of an elected councillor six months or less before the election of councillors is to be held, the Council shall, at its next meeting, appoint a member qualified to vote in the same electoral zone to hold office for the balance of the term.

(3) A councillor who fails to attend three successive meetings of the Council without the prior leave of the Council ceases to be a councillor.

(4) Where a person who becomes disqualified pursuant to subsection (3) was appointed by the Governor in Council, the Registrar shall request the Governor in Council to revoke the appointment and appoint a replacement.

9 (1) A majority of councillors is a quorum.

(2) The Council may act even if there is a vacancy.

(3) All questions arising in Council shall be decided by the majority vote of the councillors present.

(4) In the event of a tie vote, the motion is lost.

(5) A resolution signed by a majority of the councillors has the same effect as a motion passed at a meeting of the Council.

10 (1) The College may hold such general meetings of the members as the Council may determine.

(2) The quorum of a general meeting of the College is twenty members.

11 The Council may pass by-laws not inconsistent with this Act respecting

(a) the division of the Province into electoral zones for the purpose of electing councillors;

(b) the number of councillors to be elected from each zone;

(c) the conduct of elections of councillors;

(d) the categories of members that have full voting privileges;

(e) rules of order respecting council meetings, including the power to prescribe the terms on which meetings may be held other than in the physical presence of the councillors;

(f) the structure and powers of committees;

(g) remuneration and expenses of councillors and members of committees;

(h) banking and financial affairs of the College.

REGISTRATION AND LICENSING

12 (1) The Council shall appoint a Registrar of the College.

(2) The Registrar shall keep a register of all persons qualified to practise pharmacy pursuant to this Act.

(3) Any register certified by the Registrar to be the register of the College is deemed to be the register of the Society and is sufficient for the purpose of this Act and any prosecution pursuant to this Act, notwithstanding any deviation from the requirements of this Act.

(4) The Registrar may, on payment of such fee as may be fixed by the Council, furnish to any person on request a list of those persons who are licensed to practise pharmacy pursuant to this Act.

(5) The Registrar shall, on request, and without fee, confirm whether a person is or is not licensed to practise pharmacy pursuant to this Act.

(6) The Registrar may, on payment of such fee as may be fixed by the Council, and in accord with a policy adopted by the Council, provide a list of names and addresses of persons licensed to practise pharmacy pursuant to this Act.

(7) A copy of the register or an extract from the register, purporting to be certified by the Registrar or acting Registrar to be a true copy of the register or an extract from the register, shall be received in evidence in any court as *prima facie* truth of the statements contained therein and that a person whose name does not appear in the register is not licensed pursuant to this Act without further proof.

(8) The Registrar shall maintain separate registers respecting certified dispensers, students and interns.

(9) In order to maintain registration, students, interns and certified dispensers shall pay the fees determined by the regulations and comply with such other requirements as may be determined in the regulations.

13 (1) The Registrar shall issue a certificate of registration and a licence to practise pharmacy pursuant to this Act to every person who is qualified to practise pharmacy pursuant to this Act.

(2) A licence may be issued subject to such conditions as, in the opinion of the Registrar, are necessary for the protection of the public and appropriate patient care.

(3) A licence shall be issued subject to any limitations as may have been agreed in a settlement agreement or as may have been imposed by a hearing committee.

(4) Any person may appeal the Registrar's refusal to register or license that person or conditions imposed on a licence by the Registrar, to the Council or to a committee designated by the Council to hear appeals pursuant to this Section.

(5) Every person is qualified to practise pharmacy pursuant to this Act who

(a) has completed a degree program in pharmacy accredited by the Canadian Council for Accreditation of Pharmacy Programs or determined by the Council to be the equivalent of an accredited program;

(b) has attained the language requirements determined pursuant to the regulations;

(c) has attained and can demonstrate competence in jurisprudence, for Canada and specific to the Province, as determined pursuant to the regulations;

(d) has successfully completed a structured practice-experience program as determined pursuant to the regulations;

(e) has successfully completed a licensing examination to assess the attainment of competencies where the examination has been approved by the Council;

(f) has paid the fees determined pursuant to the regulations; and

(g) has such other qualifications as determined pursuant to the regulations .

(6) No person shall practise pharmacy who is not licensed pursuant to this Act and who does not have liability insurance coverage as determined pursuant to the regulations.

(7) A person who has been licensed to practise pharmacy in another jurisdiction who applies for registration pursuant to this Act shall provide the Registrar with or authorize the Registrar to obtain a complete record of complaints and

discipline matters from that other jurisdiction.

(8) A person whose right to practise pharmacy in any jurisdiction has been cancelled or suspended shall not be licensed to practise pharmacy in the Province until approved by the Council, upon such terms and conditions as the Council may prescribe.

14 (1) The Registrar shall provide every person entitled to be registered to practise pharmacy pursuant to this Act with a certificate of registration upon payment of the fee determined by the Council.

(2) A certificate of registration is not a licence to practise pharmacy.

15 (1) Every person who is engaged in the practice of pharmacy shall, in each year, pay to the College the fees determined pursuant to the regulations at the times determined pursuant to the regulations.

(2) Every person registered pursuant to this Act shall, in each year, complete the requirements for continuing education and continuing competency determined pursuant to the regulations and furnish proof of such compliance to the Registrar.

(3) Every person registered pursuant to this Act shall, in each year, provide proof of liability insurance coverage as determined pursuant to the regulations for the forthcoming year.

(4) A member who fails to pay the fees as determined pursuant to the regulations is suspended as a member of the College until the fees are paid and, while suspended, is not entitled to practise pharmacy.

(5) A member who fails to comply with the requirements of the regulations respecting continuing education or continuing competency is suspended as a member of the College until the member has complied with the regulations to the satisfaction of the Registrar and, while suspended, is not entitled to practise pharmacy.

(6) A member who fails to provide proof of liability insurance coverage as determined pursuant to the regulations is suspended as a member of the College until the member has complied with the regulations and, while suspended, is not entitled to practise pharmacy.

(7) The Registrar may take such steps at the expense of the member in default to bring the suspension to the attention of the public and other affected parties as the Registrar deems necessary in the circumstances.

(8) A suspension pursuant to this Section shall be removed upon payment of the fees and compliance with the requirements respecting continuing education, continuing competency and liability insurance coverage and payment of any outstanding fines and any late payment fee determined pursuant to the regulations.

(9) Where a suspension pursuant to this Section is not removed within three years of the date of the suspension, the registration is cancelled.

16 (1) A licensed pharmacist shall, upon retiring from practice, apply to the Registrar for permission to retire from the College.

(2) The Registrar shall permit the pharmacist to retire if there are no outstanding complaints or disciplinary matters respecting the pharmacist.

(3) Where there are outstanding complaints or disciplinary matters respecting the pharmacist, the pharmacist shall not be permitted to retire until the complaint or disciplinary matter is resolved.

PHARMACIES

17 (1) No person shall operate a pharmacy unless the pharmacy is licensed pursuant to this Act.

(2) No person shall dispense drugs except in a pharmacy licensed pursuant to this Act or in a hospital pharmacy.

18 (1) The Registrar shall issue a certificate of accreditation and a pharmacy licence with respect to a pharmacy if

(a) the owner and the manager certify to the Registrar that the pharmacy complies with the requirements of the regulations;

(b) the manager of the pharmacy is a pharmacist licensed pursuant to this Act;

(c) the Registrar is satisfied that the pharmacy complies with the requirements of the regulations; and

(d) the fees prescribed by the regulations are paid.

(2) A pharmacy licence is renewable upon compliance with subsection (1) before the expiry of the current pharmacy licence.

(3) Where the fees with respect to a pharmacy licence are not paid as required by the regulations, the pharmacy's certificate of accreditation is suspended until the fees are paid and, while the certificate is suspended, the pharmacy shall not operate as a pharmacy.

(4) The Registrar may take such steps at the expense of the pharmacy in default to bring the suspension to the attention of the public and other affected parties as the Registrar deems necessary in the circumstances.

(5) A suspension pursuant to this Section shall be removed upon payment of the fees and payment of any late-payment fee determined pursuant to the regulations.

(6) Where a suspension pursuant to this Section is not removed within six months of the date of the suspension, the accreditation of the pharmacy is cancelled.

19 (1) The Registrar shall keep a register of all pharmacies licensed pursuant to this Act.

(2) Any register certified by the Registrar to be the register of pharmacies is deemed to be the register of pharmacies and is sufficient for the purpose of this Act and any prosecution pursuant to this Act, notwithstanding any deviation from the requirements of this Act.

(3) The Registrar may, on payment of such fee as may be fixed by the Council, furnish to any person, on request, a list of licensed pharmacies.

(4) The Registrar shall, on request, and without fee, confirm whether a place where drugs are sold or distributed is or is not a pharmacy licensed pursuant to this Act.

(5) The Registrar may, on payment of such fee as may be fixed by the Council, and in accord with a policy adopted by the Council, provide a list of names and addresses of pharmacies licensed pursuant to this Act.

(6) A copy of the register or an extract from the register, purporting to be certified by the Registrar or acting Registrar to be a true copy of the register or an extract from the register, shall be received in evidence in any court as *prima facie* truth of the statements contained therein and that a pharmacy the name of which does not appear in the register is not licensed pursuant to this Act without further proof.

20 (1) A certificate of accreditation shall be issued to the owner of a pharmacy with respect to a specific location.

(2) A certificate of accreditation terminates if the location or ownership of the pharmacy is changed.

(3) A certificate of accreditation is not a licence to operate a pharmacy.

21 (1) A pharmacy licence shall be issued in the name of the pharmacist who is the manager of the pharmacy.

(2) Where the pharmacist in whose name the licence is issued ceases to be the manager or ceases to be a licensed pharmacist, the pharmacy licence terminates.

(3) A pharmacy may be issued a new pharmacy licence in the name of the new manager upon compliance with this Act and the regulations.

(4) The manager of the pharmacy is responsible for ensuring that the pharmacy is in compliance with this Act and the regulations.

22 (1) Every pharmacy shall be under the personal supervision of a pharmacist or certified dispenser who is present in the pharmacy.

(2) Any part of the premises that may not be separated from the pharmacy by a physical barrier, as specified in the regulations, is part of the pharmacy for the purpose of this Act and the regulations.

(3) Any part of the premises that may be separated from the pharmacy by a physical barrier, as specified in the regulations, is not part of the pharmacy for the purpose of this Act and the regulations.

(4) No person, except a member, shall have access to the pharmacy, no contents of the pharmacy shall be offered for sale and no person may perform any professional service in the pharmacy except under the personal supervision of a licensed pharmacist or certified dispenser who is present in the pharmacy.

23 (1) The manager of every licensed pharmacy shall advise the Registrar of the names of the manager of the pharmacy and of all pharmacists, certified dispensers, interns and students employed in the pharmacy, and of any changes in the names.

(2) The manager of a pharmacy shall advise the Registrar, in writing, before that person ceases to manage the pharmacy.

(3) The manager is responsible for the pharmacy until the pharmacy is permanently closed pursuant to this Act or a licence is issued to the pharmacy in the name of a new manager.

(4) The owner of a pharmacy shall advise the Registrar before that person ceases to own the pharmacy.

(5) The owner of a licensed pharmacy who becomes bankrupt or insolvent, or makes an assignment for the benefit of creditors, shall forthwith notify the Registrar.

(6) The manager of a licensed pharmacy the owner of which dies, becomes bankrupt or insolvent, or makes an assignment for the benefit of creditors, shall forthwith notify the Registrar.

(7) The trustee in bankruptcy, liquidator, assignee or personal representative of a deceased owner shall not operate the pharmacy for the purpose of the bankruptcy, insolvency, assignment or estate unless a certificate of accreditation and a pharmacy licence have been obtained.

24 (1) The pharmacist in charge of a pharmacy, the owner of a pharmacy and the manager of a pharmacy, and every director of a corporation that owns a pharmacy, are responsible for compliance with this Act and the regulations.

(2) Anything that would be an offence against this Act if committed by an individual is an offence by each of the directors severally and by the corporation that owns the pharmacy.

PROFESSIONAL RESPONSIBILITY

25 (1) The primary responsibility of a pharmacist is the provision of optimal patient care.

(2) The practice of pharmacy includes the practice of and responsibility for

(a) the interpretation and evaluation of prescriptions;

- (b) the provision of information respecting drug and non-drug therapy;
- (c) the compounding, dispensing and added labeling of drugs and devices;
- (d) taking all reasonable steps to ensure pharmaceutical and therapeutic appropriateness of a drug therapy;
- (e) monitoring drug therapy;
- (f) the identification, assessment and recommendations necessary to resolve or prevent problems in patients related to drugs;
- (g) counselling persons respecting the therapeutic values, content, hazards, side effects and proper use and storage of drugs and devices;
- (h) the safe storage of drugs and devices;
- (i) the maintenance of proper records for drugs and devices, including patient records;
- (j) services, duties and transactions necessary to the management, operation and control of pharmacies;
- (k) the sale of drugs and devices; and
- (l) other professional services authorized by law.

(3) Every pharmacist shall ensure that each patient has sufficient information and advice for the proper use of the drug or device dispensed.

(4) A pharmacist is responsible for the accuracy of every prescription dispensed.

(5) A pharmacist is responsible for the validity of every prescription dispensed.

26 (1) An intern or a registered student shall not practise pharmacy unless under the personal supervision of a pharmacist who is present in the pharmacy.

(2) A certified dispenser may only practise pharmacy in a pharmacy.

(3) This Section also applies to hospital pharmacies.

27 (1) A pharmacist shall collect, retain, maintain, correct, protect, use and disclose the information for a complete patient record in the manner and for the purposes specified in this Act and the regulations.

(2) A pharmacist shall not disclose, or allow an employee to disclose, any patient record to any person other than the patient, except as in this Act expressly provided, as consented to or directed by the patient or as required by law.

(3) A pharmacist shall disclose patient records to the person who is the subject of the record, to that person's agent or as directed by that person.

(4) A pharmacist shall disclose relevant information from patient records to

(a) another pharmacist for the purpose of dispensing a drug or device;

(b) another pharmacist or health professional for the purpose of monitoring drug use or carrying out the duties of a pharmacist;

(c) a federal or Provincial government payment agency or an insurer that reimburses the cost of prescribed drugs,

devices or pharmacy services for the purpose of making a payment;

(d) the College, the Registrar or an inspector for the purpose of monitoring the practice of pharmacy; and

(e) the regulatory body of a person entitled to write prescriptions, for the purpose of investigating the abuse or misuse of drugs or devices or the inappropriate or fraudulent prescription of drugs or devices.

(5) Subject to any restrictions imposed by the regulations, a pharmacist may disclose relevant information from patient records for the purpose of scientific research, provided the names of patients are not disclosed.

(6) Any person who receives information from a patient record pursuant to this Section shall not disclose that information to any other person unless it is to be used for the purpose for which it was originally provided.

28 (1) Every person who dispenses a prescription, unless expressly prohibited in the prescription by the prescriber, may select and dispense an interchangeable pharmaceutical product other than the one prescribed if the interchangeable pharmaceutical product is listed as interchangeable in a formulary of interchangeable drugs approved or issued by the Province or a department or agency of the Province.

(2) When a drug is prescribed by its common, generic, chemical or proper name, the person who dispenses the prescription shall select and dispense a pharmaceutical product listed as interchangeable in a formulary of interchangeable drugs approved or issued by the Province or a department or agency of the Province.

29 A person who is not a licensed pharmacist or a certified dispenser, intern or registered student in the employ and under the supervision of a licensed pharmacist, shall not

(a) sell the drugs or devices included in a schedule prescribed pursuant to this Act unless the sale is expressly authorized in the appropriate schedule and then only upon the conditions set out in the schedule; or

(b) compound or dispense drugs for medicinal purposes.

PROTECTION OF PATIENTS' INTERESTS

30 (1) Where a pharmacy

(a) is closed;

(b) is operating without the supervision of a licensed pharmacist;

(c) ceases to have a licensed pharmacist as manager;

(d) makes an assignment in bankruptcy or for the benefit of creditors; or

(e) is struck off the register or is the subject of suspension of licence,

and adequate provision has not been made for the continuation of patient care, the Registrar may appoint a custodian who is a licensed pharmacist to take such steps as may be necessary, including continued operation of the pharmacy under the direction of the College, to ensure continued service to the public.

(2) Any order of the Registrar pursuant to this Section expires fourteen days after it is made unless sooner confirmed by the Council or revoked by the Council or the Registrar.

(3) The custodian appointed pursuant to this Section may enter the pharmacy and take all such steps as the custodian deems necessary for the protection of the public and the provision of adequate patient care.

(4) On the termination of the custodianship as determined by the Council, the College shall pay over to the person entitled thereto any moneys earned from the pharmacy during the custodianship less any expenses incurred, including

the reasonable costs incurred by the College with respect to the custodianship.

(5) The owner or manager of a pharmacy in respect of whom an order has been made pursuant to this Section may, after giving notice to the Council and to the custodian, apply to the Council to vary or set aside an order made pursuant to this Section and to direct the custodian to place all or part of the pharmacy back into the possession of the owner or manager upon such terms as may be just.

(6) The owner or manager of a pharmacy in respect of whom an order has been made pursuant to this Section may appeal any decision of the Council pursuant to subsection (5) to the court, and the court may make any decision or order that the Council could have made.

31 (1) Where a member ceases to practise pharmacy or to be qualified to practise pharmacy or where a pharmacy closes or ceases to be licensed, the Council may appoint a custodian who is a licensed pharmacist to take possession of the patient records in the custody of the member or pharmacy if adequate provision has not been made for the protection of patients' interests.

(2) The custodian shall keep and protect all patient records taken into custody and provide copies of the patient records, as may be appropriate, to the representatives of the patients, to the patients themselves or as directed by the patients, unless there are reasonable grounds to believe it would not be in the best interest of the patient to make that information available.

(3) The Council may authorize the custodian to employ professional assistance to carry out the custodian's duties, give directions to the custodian as to the disposition of patient records, make provision for the remuneration, disbursements and indemnification of the custodian and make provision for the discharge of the custodian either before or after completion of the responsibilities imposed upon the custodian.

(4) A member or pharmacy in respect of whom an order has been made pursuant to this Section may, after giving notice to the Council and to the custodian, apply to the Council to vary or set aside an order made pursuant to this Section and to direct the custodian to place all or part of the patient records back into the possession of the member or pharmacy upon such terms as may be just.

(5) A member or the owner or manager of a pharmacy in respect of whom an order has been made pursuant to this Section may appeal any decision of the Council pursuant to subsection (4) to the court, and the court may make any decision or order that the Council could have made.

(6) This Section applies *mutatis mutandis* to former members of the College and to a pharmacy whether or not it has a current licence.

INSPECTIONS

32 (1) The Council or the Registrar may appoint an inspector.

(2) The Registrar is an inspector.

(3) The duty of an inspector is to ensure that the requirements of this Act and the regulations are observed in the practice of pharmacy and by pharmacies.

33 (1) An inspector may, at any reasonable time, without a court order, do one or more of the following:

(a) inspect the premises in which, and equipment and materials with which, a person practises pharmacy or carries out duties and procedures delegated by a pharmacist;

(b) inspect the inventory of drugs and devices within a pharmacy;

(c) inspect pharmacy records, including patient records;

- (d) inspect the records of a licensed pharmacist concerning the pharmacist's practice of pharmacy;
- (e) inspect the records of a federal or Provincial government payment agency or an insurer that reimburses the cost of prescribed drugs, devices or other pharmacy services;
- (f) observe the practice of pharmacy or the carrying out of the delegated duties and procedures in a pharmacy, including the carrying out of related duties and procedures by or on behalf of a pharmacist;
- (g) remove a prescription file, drug, drug container, device, patient record or other record from a pharmacy for a period of no longer than five clear days for the purpose of copying or photographing it if it is impractical to make the copy or take the photograph at the pharmacy;
- (h) remove a sample of a drug or other thing from a pharmacy for the purpose of analysing its composition;
- (i) remove from a pharmacy for consideration by an investigation committee
 - (i) drugs or devices the inspector considers unfit for sale, or
 - (ii) drugs or devices for which the expiry date has passed.

(2) Where a drug or device has been removed under subsection (1)(i), it may be disposed of as directed by a hearing committee or an investigation committee unless a court has ordered otherwise.

(3) An inspector shall provide the manager of the pharmacy with a receipt setting out all items removed from the pharmacy pursuant to subsection (1).

(4) An inspector may exercise all of the powers granted by subsection (1) with respect to a hospital pharmacy if the Governor in Council, by regulation, provides that hospital pharmacies are regulated pursuant to this Act.

34 (1) No person shall mislead, obstruct, harass or physically or verbally abuse the Registrar or an inspector in the lawful performance of duties or exercise of powers under this Act, the regulations or the by-laws.

(2) No person shall mislead, obstruct, harass or physically or verbally abuse a person who is lawfully exercising powers under this Act, the regulations or the by-laws.

35 (1) Any record required to be kept pursuant to this Act, the regulations or the by-laws is open to inspection at all reasonable times by an inspector.

(2) An inspector may enter any pharmacy or other shop or place in the performance of duties under this Act at all reasonable times without previous notice.

PROFESSIONAL ACCOUNTABILITY

36 In Sections 37 to 60,

(a) "member" includes a licensed pharmacist, a person who was a licensed pharmacist, a certified dispenser or person who was formerly a certified dispenser, a registered student or a person who was formerly a registered student and an intern or person who was formerly an intern, and any pharmacist, certified dispenser, registered student or intern whose registration or licence is under suspension; and

(b) "pharmacy" includes a licensed pharmacy, a formerly licensed pharmacy and a pharmacy the licence or accreditation of which is suspended.

37 (1) Any person, including the Registrar, may file a complaint in writing.

(2) The Registrar shall refer any written complaint respecting a disciplinary matter to an investigation committee.

(3) The Registrar shall provide the member or pharmacy complained of with a copy of the complaint.

38 (1) The Registrar may require a member to

- (a) submit to physical or mental examinations by such qualified persons as the Registrar designates;
- (b) submit to an inspection or audit of the practice of the member by such qualified persons as the Registrar designates;
- (c) submit to such examinations as the Registrar directs to determine whether the member is competent to practise pharmacy;
- (d) produce records and accounts kept with respect to the member's practice;
- (e) submit to an inspection or audit of a pharmacy by such qualified persons as the Registrar directs;
- (f) produce records and accounts kept with respect to a pharmacy.

(2) Where the member or pharmacy fails to comply with subsection (1), the Registrar may suspend or restrict the registration and licence of the member or pharmacy until the member or pharmacy complies.

(3) Where the Registrar has required a member to submit to physical or mental examinations or submit to inspection or audit of the practice by a qualified person, the Registrar shall provide the member with a copy of any report received from the qualified person.

(4) Where the Registrar has required a pharmacy to submit to an inspection or audit of the pharmacy by a qualified person designated by the Registrar, the Registrar shall provide the manager of the pharmacy with a copy of any report received from the designated qualified person.

39 Every person involved in the administration of this Act, and any member of the Council or a committee of the Council or the College, shall maintain confidentiality with respect to all information that comes to that person's knowledge regarding patients, and with respect to all matters that come to that person's knowledge relating to complaints and disciplinary matters, except

- (a) as required for the administration of this Act or the regulations or proceedings under this Act or the regulations;
- (b) to one's own legal counsel;
- (c) as otherwise required by law; or
- (d) with the consent of the person to whom the information relates.

40 A person or disciplinary committee investigating a disciplinary matter concerning a member or pharmacy may investigate any other disciplinary matter concerning the member or pharmacy that comes to their attention in the course of the investigation.

41 Notwithstanding that a member of an investigation committee or a hearing committee have ceased to hold office by reason of the lapse of appointment, the member is seized with the jurisdiction to complete any matter the committee has commenced and, for this purpose, the member continues to have the same powers, privileges, immunities and duties as are provided by this Act and the regulations.

INVESTIGATION COMMITTEE

42 (1) The Council shall appoint an investigation committee or committees.

(2) An investigation committee shall be composed of at least three persons.

(3) An investigation committee shall

- (a) have as its chair a member of the Council appointed by the Council;
- (b) have as a member at least one person who is not a licensed pharmacist; and
- (c) have as members such number of members of the College as is determined by the Council.

(4) A quorum of the investigation committee is a majority of its members.

(5) In the absence of the chair of the investigation committee, the members of the committee present shall appoint a member of the committee to act as chair.

43 (1) An investigation committee shall

- (a) investigate complaints regarding a disciplinary matter concerning any member of the College;
- (b) investigate complaints regarding a disciplinary matter concerning a licensed pharmacy;
- (c) investigate any matter referred to the committee by the Registrar; and
- (d) perform such other duties as may be assigned to it by the Council.

(2) An investigation committee may

- (a) do all things necessary to provide a full and proper investigation;
- (b) appoint a person or persons to conduct an investigation or practice audit, or both;
- (c) appoint a person to conduct an inspection of a pharmacy.

(3) An investigation committee may require a member to

- (a) submit to physical or mental examinations by such qualified persons as the committee designates;
- (b) submit to an inspection or audit of the practice of the member by such qualified persons as the committee designates;
- (c) submit to such examinations as the committee directs to determine whether the member is competent to practise pharmacy;
- (d) produce records and accounts kept with respect to the member's practice;
- (e) submit to an inspection or audit of a pharmacy by such qualified persons as the committee directs;
- (f) produce records and accounts kept with respect to a pharmacy.

(4) Where the member or pharmacy fails to comply with subsection (3), the investigation committee may suspend or restrict the registration and licence of the member or pharmacy until the member or pharmacy complies.

(5) Where the investigation committee has required a member to submit to physical or mental examinations or submit to inspection or audit of the practice by a qualified person, the committee shall provide the member with a copy of any report received from the qualified person.

(6) Where the investigation committee has required a pharmacy to submit to an inspection or audit of the pharmacy by a qualified person designated by the committee, the committee shall provide the manager of the pharmacy with a copy of any report received from the designated qualified person.

(7) An investigation committee or a person appointed to conduct an investigation may

(a) employ such other experts as the committee or person deems necessary; and

(b) require the member, or any other member of the College who may have information relevant to the investigation, to attend before the committee or the person conducting the investigation to be interviewed.

(8) In a matter over which an investigation committee has jurisdiction, the committee and each member of the committee has all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*.

44 (1) An investigation committee may

(a) dismiss the complaint;

(b) attempt to resolve the matter informally;

(c) refer the matter, in whole or in part, for mediation;

(d) refer the matter, in whole or in part, to a hearing committee;

(e) with the consent of the member, counsel the member;

(f) with the consent of the member, caution the member;

(g) with the consent of the member, reprimand the member;

(h) with the consent of the member, require the member to undergo such treatment or re-education as the committee considers necessary.

(2) An investigation committee may make any combination of the dispositions that are set out in subsection (1) or the committee may make such other dispositions as it considers appropriate in accordance with the objects of this Act.

(3) The member and the complainant shall be advised in writing of the disposition of the complaint by the investigation committee.

45 (1) A member who has consented to a requirement for treatment or re-education may consent to the requirement in principle, while reserving the right to appeal the actual content of the requirement for treatment or re-education.

(2) A member may appeal the actual content of a requirement for treatment or re-education to a hearing committee within fifteen days of receiving notice of the requirement for treatment or re-education imposed by the investigation committee.

(3) Parties to an appeal pursuant to subsection (2) shall bear their own costs.

SETTLEMENT AGREEMENT

46 (1) An investigation committee or a hearing committee may agree with a member complained of to enter into a settlement agreement, in writing, that includes an admission of responsibility for a disciplinary matter violation and the member's consent to a specified disposition, conditional upon the acceptance of the agreement by a hearing committee.

(2) Where an investigation committee recommends the acceptance of the proposed settlement agreement, it shall advise a hearing committee of its recommendation.

(3) Where a hearing committee recommends the acceptance of the proposed settlement agreement, it shall advise a differently constituted hearing committee of its recommendation.

- (4)** Where a committee does not recommend a proposed settlement agreement, proceedings shall continue without reference to the proposed settlement agreement.
- (5)** Where the hearing committee accepts the recommendation of the investigation committee, it shall confirm the acceptance by written decision that incorporates the settlement agreement.
- (6)** Where the hearing committee rejects the recommendation of the investigation committee,
 - (a) it shall advise the Registrar of its decision;
 - (b) a new hearing committee shall be appointed to hear the complaint;
 - (c) no member of the hearing committee that considered the proposed settlement agreement shall be a member of the new committee; and
 - (d) the investigation committee retains jurisdiction over the complaint until the commencement of the hearing by a hearing committee.

HEARING COMMITTEE

47 (1) A hearing committee shall be appointed to hear any charges relating to a disciplinary matter against a member or a pharmacy when a disciplinary matter is referred, in whole or in part, to a hearing committee.

(2) A hearing committee is composed of at least three persons.

(3) The hearing committee shall have as members

(a) at least one person who is not a licensed pharmacist; and

(b) at least two members of the College.

(4) The hearing committee shall choose a chair from among its members.

(5) A majority of the members of the hearing committee, including a person who is not a licensed pharmacist, is a quorum.

(6) Subject to the regulations, the hearing committee may do all things necessary to provide a full and proper inquiry.

(7) In a matter over which a hearing committee has jurisdiction, the hearing committee and each member of the committee has all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*.

48 (1) Upon the request of

(a) any party to the hearing; or

(b) the chair of the hearing committee,

the Registrar shall issue a summons to a witness, including a party, for the purpose of procuring the attendance and evidence of the witness before the hearing committee.

(2) A member who is charged in a disciplinary matter shall appear at the hearing.

(3) In the event of non-attendance by the member who is charged in a disciplinary matter, the hearing committee, upon proof that the member was served with the notice of the hearing, may proceed with the hearing without further notice to

the member, render its decision and take such other action as it is authorized to take pursuant to this Act.

49 (1) Unless the member has agreed to a shorter notice period, a notice of hearing shall be served at least thirty days before the holding of the hearing.

(2) A notice of hearing shall state the details of the charges and the time and place of the holding of the hearing.

50 (1) The parties to a hearing are the College and the member complained of.

(2) Each party shall give the other party

(a) in the case of written or documentary evidence, an opportunity to examine the evidence;

(b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; and

(c) in the case of evidence of a witness, the identity of the witness and the nature of the evidence the witness is expected to provide.

(3) A hearing committee may, in its discretion, make those directions it considers necessary to ensure that a party is not prejudiced by a failure to observe subsection (2).

(4) Where a hearing committee obtains an expert opinion with respect to the subject-matter of a hearing, it shall make the nature of the opinion known to the parties and the parties may make submissions with respect to the opinion.

51 (1) Subject to subsection (2), a hearing shall be open to the public.

(2) The hearing committee may make an order that the public, in whole or in part, be excluded from a hearing or any part of it if the hearing committee is satisfied that

(a) matters involving public security may be disclosed;

(b) financial or personal or other matters may be disclosed at the hearing of such a nature that the desirability of avoiding public disclosure of those matters in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public; or

(c) the safety of a person may be jeopardized.

(3) Where it thinks fit, the hearing committee may make orders it considers necessary to prevent the public disclosure of matters disclosed at a hearing, including orders prohibiting publication or broadcasting of those matters.

(4) No order shall be made under subsection (3) that prevents the publication of anything that is contained in a register and available to the public.

(5) The hearing committee may make an order that the public be excluded from the part of a hearing dealing with a motion for an order pursuant to subsection (2).

(6) The hearing committee may make any order necessary to prevent the public disclosure of matters disclosed in the submission relating to any motion described in subsection (5), including prohibiting the publication or broadcasting of those matters.

(7) Subject to any orders pursuant to this Section, the hearing committee shall state, at the hearing, its reasons for any order made pursuant to this Section.

(8) Where a hearing committee makes an order pursuant to subsection (2), wholly or partly because of the desirability of avoiding disclosure of matters in the interest of a person affected, the committee

(a) shall allow the parties, the complainant and their legal and personal representatives to attend the hearing; and

(b) may allow such other persons as the committee considers appropriate to attend the hearing.

(9) A hearing committee, on the request of a witness, other than the member, whose testimony is in relation to allegations of misconduct of a sexual nature by a member involving the witness, shall order that no person publish the identity of the witness or any information that could disclose the identity of the witness.

(10) No information in a patient record disclosed at a hearing shall be published or broadcast in a form in which the patient may be publicly identified.

52 (1) At a hearing of the hearing committee, a member is entitled to all the rights of natural justice, including the right to be represented by legal counsel, to know all the evidence considered by the hearing committee, to present evidence and to cross-examine witnesses.

(2) A hearing committee shall hear each case in the manner it deems fit.

(3) A hearing committee may require the member to

(a) submit to physical or mental examinations by such qualified persons as the committee designates;

(b) submit to an inspection or audit of the member's practice by such qualified persons as the committee designates;

(c) undergo such examinations as the hearing committee directs to determine whether the member is competent to practise pharmacy;

(d) produce records and accounts kept with respect to the member's practice;

(e) submit to an inspection or audit of a pharmacy by such qualified persons as the committee directs;

(f) produce records and accounts kept with respect to a pharmacy.

(4) Where a member or pharmacy fails to comply with subsection (3), the hearing committee may suspend or restrict the registration and licence of the member or pharmacy until the member or pharmacy complies.

(5) Where the hearing committee has required a member to submit to physical or mental examinations or submit to inspection or audit of the practice by a qualified person designated by the committee, the committee shall provide the member with a copy of any report it receives from the designated qualified person.

(6) Where the hearing committee has required a pharmacy to submit to an inspection or audit of the pharmacy by a qualified person designated by the committee, the committee shall provide the manager of the pharmacy with a copy of any report it receives respecting the inspection.

53 (1) The hearing committee shall determine whether the member is guilty of charges relating to a disciplinary matter.

(2) Where there is a guilty finding, the hearing committee may determine that

(a) the registration, licence, or both, of the member or pharmacy be revoked, and that the member's or pharmacy's name be stricken from the registers in which it is entered;

(b) the licence of the member or pharmacy be suspended

(i) for a fixed period, or

(ii) for an indefinite period until the occurrence of some specified future event or until compliance with conditions

prescribed by the committee;

- (c) conditions, limitations or restrictions be imposed on the licence of the member or pharmacy;
 - (d) the member undergo such treatment or re-education as the committee considers necessary;
 - (e) the member or pharmacy pay the fine that the committee considers appropriate to the College to be applied to such purposes as determined by the Council, but not exceeding one hundred thousand dollars;
 - (f) the member be reprimanded;
 - (g) such other disposition as it considers appropriate be imposed.
- (3)** A hearing committee may make any combination of the dispositions that are set out in subsection (2) or the committee may make such other dispositions as it considers appropriate in accordance with the objects of this Act.
- (4)** Where there is a not guilty finding, the hearing committee shall dismiss the charges.
- (5)** The hearing committee shall file its decision, including reasons, at the offices of the College.
- (6)** The Registrar shall provide the member or associate member, the complainant and such other persons as the Registrar considers appropriate with a copy of the decision of the hearing committee.
- (7)** Where there are references in a decision identifying patients or persons other than the complainant, those references, as well as other personal information about those persons, shall be deleted if, in the Registrar's opinion, it is appropriate.
- (8)** The decision of a hearing committee has effect immediately upon service on the member or from such time as the decision may direct.
- (9)** Service on the manager of a pharmacy is sufficient service on a pharmacy.
- (10)** The hearing committee shall release documents and things put into evidence at a hearing to the person who produced them, on request, within a reasonable time after the matter in issue has been finally determined.

54 (1) In this Section, "costs of the College" include

- (a) expenses incurred by the College, the Council, the investigation committee and the hearing committee;
 - (b) sums paid to members of the investigation committee and the hearing committee; and
 - (c) solicitor and client costs and disbursements of the College relating to the investigation and hearing of the complaint.
- (2)** When a hearing committee finds a member or pharmacy guilty of charges relating to a disciplinary matter, it may order that the member or pharmacy pay the costs of the College, in whole or in part.
- (3)** When a member or pharmacy is ordered to pay the costs of the College, the Council may make it a condition of the registration or licence of the member or pharmacy that the costs be paid forthwith, or at such time and on such terms as the Council may fix.

55 (1) Where

- (a) the registration or licence of a member has been suspended or revoked for reasons of professional misconduct, conduct unbecoming or incompetence by another licensing or regulatory authority;
- (b) a member is in breach of a settlement agreement or a requirement imposed by an investigation or hearing committee pursuant to this Act;

(c) a member is in violation of a limitation on practice imposed pursuant to this Act;

(d) a member has been convicted of an offence pursuant to an enactment or an Act of the Parliament of Canada or a province of Canada relating to the sale of drugs or alcoholic liquors, relating to professional practice or that raises a question as to the member's fitness to practise pharmacy;

(e) a member has been convicted of an offence pursuant to the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada) or the *Food and Drug Act* (Canada); or

(f) a member has had the member's rights or privileges under the *Controlled Drugs and Substances Act* (Canada) or the *Food and Drug Act* (Canada), or the regulations made pursuant to those Acts, restricted or withdrawn, except by the person's own request,

the Registrar shall provide the member with notice of a hearing together with a copy of the relevant decision of the other licensing or regulatory authority or summary of the matter to be addressed.

(2) The hearing committee shall hear such evidence as is offered by the member as to why the member should not be subject to disciplinary action.

(3) The hearing committee shall determine whether disciplinary action ought to be taken with respect to the member.

(4) The hearing committee shall not determine that disciplinary action be taken unless the committee is satisfied that the member falls within one or more of the conditions set out in subsection (1).

(5) Where the hearing committee determines that disciplinary action is warranted, the committee may take any of the actions authorized by this Act.

(6) A certificate of conviction of a member is conclusive evidence that the member committed the offence stated in the certificate unless it is shown by the member that the conviction has been quashed or set aside.

56 (1) Notwithstanding anything contained in this Act, where

(a) the Registrar receives information that indicates that a member may be incompetent or guilty of professional misconduct or conduct unbecoming; and

(b) the Registrar concludes that it is in the public interest to suspend from practice or restrict the practice of the member, the Registrar may, without a hearing,

(c) immediately suspend the registration or licence, or both, of the member on a temporary basis; or

(d) immediately impose restrictions on the registration or licence, or both, of the member on a temporary basis.

(2) The member shall be notified forthwith of a decision made pursuant to subsection (1).

(3) The member shall be provided with a written notice of the decision that includes a statement of the reasons for the decision.

(4) Where a decision is made pursuant to subsection (1), a hearing committee shall be appointed to proceed with a hearing to determine whether the member is guilty of charges relating to a disciplinary matter.

(5) A decision pursuant to subsection (1) continues in force until final resolution by a hearing committee, which resolution shall occur without undue delay.

(6) A member in respect of whom a decision has been made pursuant to subsection (1) may request, in writing, that the

Registrar refer the matter to an investigation committee for reconsideration of the Registrar's decision.

(7) Where a matter has been referred to an investigation committee pursuant to subsection (6), the Registrar shall arrange for the investigation committee to consider the matter as soon as possible.

(8) The investigation committee may confirm, vary or terminate the suspension or restrictions imposed.

(9) The investigation committee shall, on the request of the member, provide an opportunity for the member to meet with the committee before it renders a decision pursuant to subsection (8).

(10) An investigation committee has the powers of the Registrar pursuant to this Section and, where there is a request for reconsideration pursuant to subsection (6), the reconsideration shall be by the committee that exercised the power.

57 (1) Any licence or certificate that has been revoked or suspended shall forthwith be surrendered to the Registrar.

(2) No licence or certificate that has been revoked or suspended shall be publicly displayed.

58 (1) The member or pharmacy complained against may, within thirty days of the date of the decision of the hearing committee, appeal from the findings of the hearing committee to the Nova Scotia Court of Appeal on any point of law.

(2) The notice of appeal shall be served upon the Registrar.

(3) The *Civil Procedure Rules* governing appeals from the Supreme Court of Nova Scotia to the Nova Scotia Court of Appeal apply *mutatis mutandis* to appeals pursuant to this Section.

(4) Where a matter is appealed to the Nova Scotia Court of Appeal pursuant to subsection (1), the Court of Appeal, pending a decision by the Court of Appeal, has jurisdiction to grant a stay of any order made pursuant to this Act where, in its discretion, it deems it fit.

(5) The College may destroy records relating to a disciplinary hearing at any time after the time for appealing a decision has expired.

59 A decision of the Registrar or a committee in matters of discipline is not admissible in a civil proceeding other than an appeal or review pursuant to this Act.

60 (1) A person whose licence has been revoked by a hearing committee may apply to the Council for reinstatement, including registration as a member of the College and the issuance of a licence.

(2) An application for reinstatement shall not be made earlier than

(a) two years after the revocation; and

(b) six months after any previous application.

(3) The Council, upon

(a) being satisfied that the interest of the public has been adequately protected;

(b) being satisfied as to the intention of the person to practise pharmacy in the Province;

(c) being satisfied as to the activities of the person since the time of the revocation;

(d) being given a letter of good standing from all jurisdictions in which the person had practised pharmacy since the date of the revocation;

(e) the person successfully completing any examinations directed by the Council; and

(f) the person successfully demonstrating competence and successfully completing any other conditions imposed by the Council,

may direct the Registrar to register the person as a member of the College and issue a licence to that person upon such terms and conditions as the Council may direct.

(4) Where a person's licence has been revoked or suspended by reason of addiction or habituation to alcohol or drugs, or both, or mental or other illness, an application for reinstatement shall be supported by certificates from two duly qualified medical practitioners, one of whom is appointed by the Registrar, certifying that the applicant is fit to practise pharmacy.

OFFENCES

61 Except as expressly provided by this Act or the regulations, a person who does not hold a valid licence as a pharmacist pursuant to this Act shall not

- (a) practise or attempt to practise the profession of pharmacy;
- (b) sell or offer for sale any scheduled drugs or devices;
- (c) dispense or compound drugs;
- (d) assume or use the title of "pharmacist", "druggist", "pharmaceutical chemist", "apothecary" or words of like import, the designation PhC., R.Ph. or R.Pharm. or a similar abbreviation or any other words or abbreviations to imply that the person is licensed pursuant to this Act.

62 (1) A person shall not use any of the following designations in respect of a business that is not a licensed pharmacy or hospital pharmacy:

- (a) "pharmacy", "drug store", "drug department", "drug sundries", "drug mart" or "drugateria";
- (b) "drug", "drugs", "drug sundries", "medication" or "medications"; or
- (c) "prescription" or "prescriptions".

(2) A person shall not use any similar designation, suffix, prefix, word, title or designation, abbreviated or otherwise, with respect to premises that are not a licensed pharmacy.

(3) A person shall not use any form of expression that implies or appears to be calculated to lead the public to infer that a business may be licensed pursuant to this Act if the business is not so licensed.

63 (1) Where a person has sold or otherwise disposed of or offered to sell or dispose of an article

- (a) that purports to be or to contain a drug; or
- (b) the container of which is marked to indicate that the contents are or include a drug,

the onus is on that person to establish that the article is not and does not contain the drug.

(2) Where a person has sold or otherwise disposed of, or offered to sell or dispose of, an article that the person has represented to be or to contain a drug, the article is conclusively deemed to be or to contain that drug.

(3) The presence on business premises of a scheduled drug is proof in the absence of evidence to the contrary that it is kept for dispensing or sale.

64 (1) A certificate of analysis from an analyst appointed pursuant to the *Food and Drug Act* (Canada), stating that the

analyst has analysed or examined a substance and stating the result of the analysis or examination is admissible in evidence in any proceeding under this Act, and is evidence of the statements contained in the certificate.

(2) Reasonable notice of an intention to introduce a certificate of analysis in evidence shall be given to the person against whom it is to be used, together with a copy of the certificate.

65 Where a person is charged with more than one offence under this Act, it is lawful to include all the charges in one information.

66 (1) A person who

(a) violates this Act or the regulations;

(b) fails to comply with this Act or the regulations;

(c) permits anything to be done that is a violation of this Act or the regulations; or

(d) obstructs or hinders any person in the performance of duties pursuant to this Act or the regulations,

is guilty of an offence.

(2) A person who commits an offence is liable upon summary conviction to a penalty of not less than one thousand dollars and not more than fifty thousand dollars and, in default of payment, to imprisonment for a term of not more than one year.

(3) Every day during which an offence pursuant to subsection (1) continues is a separate offence.

(4) Where a penalty imposed pursuant to subsection (2) has not been recovered pursuant to the *Summary Proceedings Act*, the penalty may be recovered as a private debt with costs by action in the name of the Registrar.

(5) Every penalty when collected shall be paid to the Registrar for the purposes of the College.

67 Where a person does or attempts to do anything contrary to this Act or the regulations, the College may apply to a judge of the Supreme Court of Nova Scotia for an injunction or other order and the judge may make any order that the justice of the case requires.

68 (1) Any complaint or information for the recovery of any penalty under this Act may be laid or made by the Registrar or other person designated by the Council.

(2) A certificate purporting to be signed by the Registrar is *prima facie* proof of a designation pursuant to subsection (1).

69 An owner or manager of a pharmacy is liable for every offence against this Act or the regulations committed by any person with the express or implied permission, consent, acquiescence or approval of the owner or manager.

70 In any action or prosecution pursuant to this Act, a certificate purporting to be signed by the Registrar that a person is not a licensed pharmacist or that premises are not a licensed pharmacy is *prima facie* proof that the person or premises are not licensed pursuant to this Act.

GENERAL

71 No action for damages lies against the College, the Council, a custodian or any committee, member, officer, appointee or employee of the College for anything done or omitted to be done in good faith pursuant to this Act and the regulations.

72 Except as otherwise provided in this Act or as may be provided by the Governor in Council pursuant to this Act, this Act and the regulations do not apply to a hospital pharmacy or to the practice of pharmacy in a hospital.

73 This Act and the regulations do not apply to a pharmacy operated by, nor to a pharmacist employed by, the armed forces within the confines of an armed forces base and serving only armed forces personnel and their immediate families.

74 Nothing in this Act prevents the incorporation of a pharmacy or pharmacist, but every pharmacist continues to be personally responsible for compliance with this Act and the regulations notwithstanding any such incorporation.

75 Nothing in this Act prevents any person from selling goods of any kind to any medical practitioner, dentist or veterinary surgeon, nor prevents the members of those professions supplying to their patients such medicines as they may require.

76 No action shall be brought against any person registered under this Act for negligence or malpractice by reason of professional services requested or rendered, unless the action is commenced within one year from the date when, in the matter complained of, the professional services were rendered.

77 (1) The Council may make regulations respecting

- (a) determining language requirements, competence in jurisprudence and examinations required to be proven or taken before a person can be registered as a pharmacist;
- (b) the time after graduation, practice experience or last practice within which a person shall apply to be registered;
- (c) standards of practice for the practice of pharmacy;
- (d) the definition of fields of specialization, the manner in which qualification for specialization may be attained and recognized by the College and requirements for continuing education and competency to retain a specialist designation;
- (e) categories of membership in the College, including any restrictions on the right to practise pharmacy attaching to particular categories, and any right to use a designation otherwise prohibited by this Act;
- (f) determining the content of structured practical training programs, practice experience and structured practical experience;
- (g) determining what is an acceptable pharmacy program for the purpose of clause 2(v);
- (h) standards for pharmacies;
- (i) the minimum number of hours a pharmacy must be open;
- (j) responsibilities of pharmacy managers;
- (k) opening, closing and transferring pharmacies;
- (l) standards for dispensing, including validation of prescriptions, labelling and packaging;
- (m) determining what is an acceptable program to meet the requirements for continuing education;
- (n) determining the requirements for confirming continuing competency;
- (o) pharmacy information and signage;
- (p) advertising;
- (q) requirements to separate the pharmacy from adjacent areas;

- (r) responsibilities of preceptors;
- (s) supervised practice and the delegation of any part of the practice of pharmacy and the persons to whom it may be delegated;
- (t) the fees for registration, accreditation, reinstatement, licences and applications and the time when they are to be paid;
- (u) the length of time for which a licence is valid;
- (v) prescribing forms and procedures for the purpose of this Act or the regulations;
- (w) the defining of any word or expression used but not defined in this Act;
- (x) any matter deemed necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) In any regulation, the Council may adopt by reference, in whole or in part, any schedule, code, specification, examination, standard or formulary recognized by the Council and may also provide that it is adopted as amended from time to time, except such amendments as are expressly disallowed by the Council.

(3) In any regulation, the Council may prescribe different requirements for different classes of member or other registrants.

(4) The exercise by the Council of the authority contained in this Section is regulations within the meaning of the *Regulations Act*.

(5) The Registrar shall file a certified copy of any regulation made pursuant to this Section with the Minister of Health within thirty days after it is made.

78 (1) The Council may, by regulation, prescribe the schedules required by this Act.

(2) The Council may prescribe in the schedules

- (a) the conditions under which any drug or substance named in the schedule may be sold or dispensed;
- (b) the percentage of any substance to be contained in any preparation named in the schedule;
- (c) the manner in which prescriptions shall be given in respect of any drug named in the schedule and the conditions under which the prescriptions may be given.

(3) The Council may in any schedule adopt by reference, in whole or in part, any schedule, code, specification, standard or formulary recognized by the Council, and may also provide that it is adopted as amended from time to time, except such amendments as are expressly disallowed by the Council.

(4) Regulations made pursuant to this Section shall be sent to the Minister of Health who may disallow all or part of them within thirty days after they are sent and, if not disallowed, the regulations shall be published in the Royal Gazette and come into force on publication.

(5) Regulations made pursuant to this Section are regulations within the meaning of the *Regulations Act*.

79 (1) Notwithstanding anything contained in this Act, the tenure of all councillors and officers of the College elected or appointed before the coming into force of this Act continues until expiry in due course.

(2) Pharmacists and pharmacies licensed pursuant to Chapter 343 of the Revised Statutes, 1989, the *Pharmacy Act*, continue to be licensed pursuant to this Act for the term of the licence, subject to any conditions or limitations attached to the licence pursuant to the former Act, and are deemed to be registered or accredited, as the case may be.

(3) An application for accreditation or registration commenced but not concluded before the coming into force of this Act shall be dealt with pursuant to this Act.

(4) A complaint made or discipline proceedings commenced before the coming into force of this Act shall be concluded under Chapter 343 of the Revised Statutes, 1989, the *Pharmacy Act*, as if this Act had not come into force.

(5) A complaint made respecting conduct occurring before the coming into force of this Act shall be dealt with under Chapter 343 of the Revised Statutes, 1989, the *Pharmacy Act*, as if this Act had not come into force.

(6) Regulations and by-laws prescribed pursuant to Chapter 343 of the Revised Statutes, 1989, the *Pharmacy Act*, continue in force until amended or replaced pursuant to this Act.

80 (1) The Council, subject to the approval of the Governor in Council, may make regulations respecting

(a) requirements for registration as a pharmacist;

(b) requirements for continuing education;

(c) requirements for continuing competence;

(d) patient record preservation and transfer;

(e) duties and reports required of a custodian of patient records;

(f) provisions for the disposition of patient records in the possession of a custodian;

(g) limiting the disclosure of, and protecting, patient information;

(h) the further definition of what constitutes professional misconduct;

(i) discipline policies and procedures;

(j) requirements for liability insurance coverage;

(k) the exemption of a named nursing home or residential-care facility licensed pursuant to the *Homes for Special Care Act* or a named institution operated by the Government of the Province or of Canada from this Act or the regulations;

(l) rules for alternative or collaborative practice agreements with other health professions.

(2) The Governor in Council may make regulations respecting

(a) those provisions of this Act that apply to hospital pharmacies;

(b) the regulation of hospital pharmacies;

(c) the regulation of the practice of pharmacy in a hospital;

(d) the circumstances under which a licensed pharmacist may prescribe drugs.

(3) In any regulation passed pursuant to this Section, the Council or the Governor in Council may adopt by reference, in whole or in part, any schedule, code, specification, examination, standard or formulary, and may also provide that it is adopted as amended from time to time, except such amendments as are expressly disallowed by the Council or the Governor in Council, as the case may be.

(4) The exercise by the Council or the Governor in Council of the authority contained in this Section is regulations within the meaning of the *Regulations Act*.

81 (1) Subsection 53(2) of Chapter 10 of the Acts of 2001, the *Registered Nurses Act*, is amended by striking out "Pharmaceutical Society" in the last line and substituting "College of Pharmacists".

(2) Subsection 53(5) of Chapter 10 is amended by striking out "Pharmaceutical Society" in the last line and substituting "College of Pharmacists".

(3) Subsection 54(2) of Chapter 10 is amended by striking out "Pharmaceutical Society" in the last line and substituting "College of Pharmacists".

(4) Subsection 54(4) of Chapter 10 is amended by striking out "Pharmaceutical Society" in the last line and substituting "College of Pharmacists".

82 Chapter 343 of the Revised Statutes, 1989, the *Pharmacy Act*, is repealed.

83 This Act has effect on and after April 1, 2002.

