



BILL NO. 13

Government Bill

*3rd Session, 61st General Assembly
Nova Scotia
60 Elizabeth II, 2011*

An Act Respecting the Profession of Pharmacy

CHAPTER 11
ACTS OF 2011

**AS ASSENTED TO BY THE ADMINISTRATOR OF THE PROVINCE
MAY 19, 2011**

The Honourable Maureen MacDonald
Minister of Health and Wellness

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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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) “agent”, in relation to a patient, means a person who, with the authorization of a patient, acts for or on behalf of the patient in respect of a prescription or personal health information for the purposes of the patient, and not the purposes of the agent, if the pharmacy is reasonably satisfied that the agent has the authorization of the patient;

(b) “alternative practice” means the authority for a registrant to lawfully carry out services more usually provided by other health professionals;

(c) “assessment for incapacity” means an assessment by a health-care professional licensed in the Province and with an expertise in assessing incapacity;

(d) “by-law” means a by-law of the College;

(e) “certified dispenser” means a person who was duly registered as a certified dispenser before August 1, 1962, and who has been continuously registered as a certified dispenser since that date;

(f) “collaborative practice” means a relationship of a registrant with other regulated health professionals that enables health-care providers in the relationship to work together to use their separate and shared knowledge and skills to provide optimum patient-centered care in accordance with the standards of practice and guidelines for collaborative practice approved by the College;

(g) “College” means the Nova Scotia College of Pharmacists;

(h) “competence assessment” means a process approved by the Registrar for assessing competencies;

(i) “competencies” means the specific knowledge, skills and judgement required for a registrant to be considered competent in a designated role and practice setting;

(j) “complaint” means a notice in writing alleging professional misconduct, conduct unbecoming, professional incompetence or incapacity or a violation of this Act or the regulations by a registrant;

(k) “compounding” means the pharmaceutical preparation of two or more ingredients, at least one of which is a drug, into a drug product, that is considered to be within the professional practice of pharmacy;

(l) “conduct unbecoming” includes any conduct that is

(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;

(m) “continuing competence” means the ongoing ability of a registrant to apply the knowledge, skills and judgement required to practise safely and ethically in a designated role and setting;

(n) “continuing competence program” means a program approved by the Council that focuses on promoting the maintenance and enhancement of the continuing competence of registrants throughout their careers;

(o) “Council” means the Council of the College;

(p) “councillor” means a member of the Council;

(q) “Court” means the Supreme Court of Nova Scotia;

(r) “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 any of them,

(ii) restore, correct or modify organic functions,

(iii) diagnose pregnancy, or

(iv) administer a drug;

(s) “direction” means instruction and management by a pharmacist of the performance of a task or activity;

(t) “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;

(u) “dispense” means the process of completing a prescription including its release to the patient;

(v) “dispensary” means an area in which prescriptions are prepared and drugs are compounded or dispensed, and includes the area containing active patient records;

(w) “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 any 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 under this Act;

(x) “Fitness to Practise Committee” means the Fitness to Practise Committee appointed pursuant to this Act;

(y) “former Act” means Chapter 36 of the Acts of 2001, the *Pharmacy Act*;

(z) “Hearing Committee” means the Hearing Committee appointed pursuant to this Act;

(aa) “hospital pharmacy” means a pharmacy within the care and jurisdiction of a hospital as defined by the *Hospitals Act* that

(i) dispenses drugs to patients in the hospital for treatment and to registered outpatients for administration within the jurisdiction of the hospital, 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 the general public, to hospital staff or to others outside the care and jurisdiction of the hospital;

(ab) “incapacity” means that a registrant suffers from a medical, physical, mental or emotional condition, disorder or addiction that renders the registrant unable to practise with reasonable skill or judgement or that may endanger the health or safety of patients;

(ac) “inspector” means an inspector appointed pursuant to this Act;

(ad) “intern” means a person registered with the College who is participating in a period of practice experience after having obtained a degree in pharmacy but before being registered and licensed to practise pharmacy;

(ae) “investigator” means a person designated by the Registrar to conduct, direct or assist in an investigation into a complaint;

(af) “Investigation Committee” means the Investigation Committee appointed pursuant to this Act and the regulations;

(ag) “legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before any tribunal, board or commission or arbitration, in which evidence is or may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations;

(ah) “licensed” means in possession of a valid current licence from the College that is not suspended or revoked;

(ai) “licensing sanction” means

(i) the imposition of conditions or restrictions on a licence by the Investigation Committee or the Hearing Committee or their equivalent in another jurisdiction,

(ii) a consent reprimand ordered by the Investigation Committee or its equivalent in another jurisdiction,

(iii) a reprimand issued by the Hearing Committee or its equivalent in another jurisdiction,

(iv) a suspension of a licence by the Hearing Committee or its equivalent in another jurisdiction, or

(v) a revocation of registration or licence by the Hearing Committee or its equivalent in another jurisdiction;

(aj) “patient records” include prescription records, medication profiles and patient profiles;

(ak) “pharmacist” means a person registered and licensed under this Act as a pharmacist;

(al) “pharmacy” means that part of a place where scheduled drugs are sold by retail, whether by prescription or otherwise, including the dispensary and the professional service

area, or another facility authorized by the regulations, and includes a licensed pharmacy, a formerly licensed pharmacy and a pharmacy the licence or accreditation of which is suspended;

(am) “pharmacy technician” means a person registered and licensed under this Act as a pharmacy technician;

(an) “practice of pharmacy” means the services or restricted activities described in this Act provided by a pharmacist or by a registrant under the direction or supervision of a pharmacist pursuant to this Act;

(ao) “preceptor” means a person who is responsible for a person’s practice experience in accordance with the regulations;

(ap) “prescription” means an authorization, in writing or otherwise, communicated directly to a pharmacist or certified dispenser or other person authorized by the regulations, by 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;

(aq) “professional accountability process” means the process of investigating and dealing with alleged professional misconduct, conduct unbecoming, professional incompetence, incapacity and offences against this Act or the regulations by registrants and pharmacy owners;

(ar) “professional competence” means the ability to apply the knowledge, skills and judgement required to practise safely and ethically in a designated role and practice setting;

(as) “professional incompetence” means an apparent lack of knowledge, skill, judgement or professional competence in the care of a patient or delivery of services;

(at) “professional misconduct” includes such conduct or acts relevant to the profession that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional including, without limiting the generality of the foregoing,

- (i) a breach of the standards of practice,
- (ii) a breach of the code of ethics adopted by the College,
- (iii) the provision of unsatisfactory patient care,
- (iv) dispensing or selling drugs for an improper purpose,
- (v) jeopardizing the health or safety of patients or the public,
- (vi) signing or issuing a certificate or similar document that the person signing or issuing knows or ought to know is false or misleading,
- (vii) practising pharmacy while the ability to practise pharmacy is impaired,
- (viii) any violation of the provisions of an Act of the Parliament of Canada or a regulation made thereunder or an enactment of the Province that could reasonably be considered to jeopardize the health or safety of any person or the quality of patient care,
- (ix) failing to abide by the terms, conditions or limitations of a licence,
- (x) failing to exercise appropriate discretion in respect of the disclosure of confidential information,

- (xi) falsifying records,
 - (xii) inappropriately using professional status for personal gain,
 - (xiii) promoting for personal gain any drug, device, treatment, procedure, product or service that is unnecessary, ineffective or unsafe,
 - (xiv) permitting the premises in which a pharmacy is located to be used for unlawful purposes,
 - (xv) publishing, or causing to be published, any advertisement that is false, fraudulent, deceptive or misleading, or
 - (xvi) engaging or assisting in fraud, misrepresentation, deception or concealment of a material fact;
- (au) “professional service area” means that area of a pharmacy that is located outside and in close proximity to the dispensary where
- (i) patients receive pharmacy services, and
 - (ii) scheduled drugs may be provided for sale;
- (av) “public representative” means a person who is not a registrant who is appointed as a member of the Council or of a committee;
- (aw) “registered student” means a student in pharmacy who has not graduated and is registered with the College;
- (ax) “registrant” means a person registered with the College pursuant to this Act or the former Act, and includes a member of the College pursuant to the former Act, and also includes a licensed pharmacist or person who was a licensed pharmacist, a licensed pharmacy technician or person who was formerly a licensed pharmacy technician, a certified dispenser or person who was formerly a certified dispenser, a registered student or a person who was formerly a registered student, an intern or person who was formerly an intern and any pharmacist, pharmacy technician, certified dispenser, registered student or intern whose registration or licence is suspended;
- (ay) “Registrar” means the Registrar of the College, and includes a Deputy Registrar;
- (az) “regulations” means regulations made by the Council or the Governor in Council pursuant to this Act;
- (ba) “remedial agreement” means an agreement approved by the Fitness to Practise Committee setting out the terms and conditions to be met by a registrant to address issues of incapacity;
- (bb) “respondent” means the person or pharmacy owner that is the subject of a complaint or the subject of a hearing;
- (bc) “scheduled drug” means a drug or device listed in schedules to the regulations;
- (bd) “sell” includes barter, distribute, supply, offer, expose, give away, advertise or possess for the purpose of selling, whether or not for consideration;
- (be) “standards” means the minimal professional practice expectations for any registrant in any setting or role, approved by Council, including any standards of practice and practice policies adopted by the Council, or otherwise inherent in the pharmacy profession;

(bf) “statutory committee” means the Investigation Committee, the Fitness to Practise Committee, the Hearing Committee, the Reinstatement Committee or the Registration Appeals Committee;

(bg) “supervision” means observation and direction by a person, who is physically present, of the performance of a task or activity;

(bh) “witness” includes every person who, in the course of a legal proceeding, is examined for discovery or is cross-examined upon an affidavit made by that person, answers any interrogatories or makes an affidavit as to documents or is called upon to answer any question or produce any document, whether under oath or not, and includes the Registrar, any employee of the College and any member of the Council or a committee of the College.

NOVA SCOTIA COLLEGE OF PHARMACISTS

3 (1) The Nova Scotia College of Pharmacists incorporated by the former Act is continued as a body corporate.

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

(3) The College shall at all times, in the regulation of the practice of pharmacy,

(a) act to protect the public interest;

(b) exercise its powers and fulfil its responsibilities in the public interest; and

(c) govern the practice of pharmacy in the interest of optimal health outcomes.

(4) The registrants of the College are those persons who were members of the College immediately the coming into force of this Act and those persons who become registrants 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) The Council shall determine the fees for registration, accreditation, reinstatement, licences and applications and the time when they are to be paid, and any fees for late or dishonoured payments or late filings.

(4) 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 registrants of the College by the registrants of the College pursuant to the by-laws;

(b) the director of the pharmacy program at Dalhousie University, or a person named by the director, as a non-voting member; and

(c) persons who are not registrants of the College, appointed by the Council, following the process set out in the regulations, equal in number to one third of the number of councillors elected pursuant to clause (a), with any fraction rounded up to the next whole number, but in no case fewer than three.

(2) Notwithstanding subsection (1), the persons who, immediately before the coming into force of this Act, made up the Council of the Nova Scotia College of Pharmacists pursuant to the former Act constitute the Council until the election or appointment of members pursuant to subsection (1).

6 (1) A councillor 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 registrant ceases to be a councillor.

(3) A councillor who is not a registrant ceases to be a councillor if the councillor becomes a registrant.

(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.

7 (1) A majority of voting councillors is a quorum.

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

8 Whenever for any reason a quorum of members of any committee is not available for a meeting or hearing, the Council may, for the purpose of the meeting or hearing, appoint to the committee such additional members as are needed for a quorum.

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

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

10 (1) The Council shall appoint an employee of the College to be the Registrar of the College.

(2) The Registrar may appoint an employee of the College to be the Deputy Registrar who has the powers and duties of the Registrar in the absence or incapacity of the Registrar, or when acting under the direction of the Registrar.

- (3)** The Registrar is responsible for the administration of the College.
- (4)** The Registrar shall
 - (a) carry out the duties set out in this Act and the regulations;
 - (b) co-ordinate and direct the preparation of plans and programs to be submitted to the Council;
 - (c) be responsible for the preparation of the annual budget and its submission to the Council for adoption;
 - (d) be responsible for the administration of the budget after adoption;
 - (e) review the drafts of all proposed by-laws, regulations, standards and policies and make recommendations to the Council with respect to them; and
 - (f) carry out such additional duties and exercise such additional responsibilities as the Council may, from time to time, direct.
- (5)** The Registrar may
 - (a) attend all meetings of the Council and any committee of the College and make observations and suggestions on any subject under discussion;
 - (b) appoint, suspend and remove employees of the College;
 - (c) delegate any powers of the Registrar to an employee of the College.

- 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 registrants who 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.

12 (1) The Council may adopt standards for the practice of pharmacy.

(2) Registrants shall observe the standards in the practice of pharmacy.

(3) Standards adopted pursuant to this Section are not regulations within the meaning of the *Regulations Act*.

13 (1) The Council may adopt a code of ethics for the practice of pharmacy.

(2) Registrants shall observe the code of ethics in the practice of pharmacy.

(3) The code of ethics adopted pursuant to this Section is not regulations within the meaning of the *Regulations Act*.

REGISTRATION AND LICENSING

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

(2) No person shall practise pharmacy unless the person has a current licence to practise pharmacy.

(3) A certificate from the Registrar or Deputy Registrar to the effect that a person has or does not have a current licence to practise pharmacy must be received in evidence in any court as proof of the facts stated, without further proof.

15 (1) The Registrar shall, on request, and without fee, confirm whether a person is or is not licensed to practise pharmacy pursuant to this Act and whether there are any conditions on the licence.

(2) The Registrar may furnish to any person on request a list of the names and business contact information of those persons who are licensed pursuant to this Act.

(3) The Registrar may, consistent with the purpose and duties of the College, provide a department or agency of Her Majesty in right of the Province with such personal information concerning registrants as may from time be required to confirm the validity of prescriptions and dispensing or to protect the security of patient information.

16 (1) The Registrar shall issue a certificate of registration and a licence to practise pharmacy to every applicant who meets the requirements to practise pharmacy pursuant to this Act and the regulations.

(2) No licence may be issued unless the applicant has the current capacity, professional competence and character to safely and ethically engage in the practice of pharmacy.

(3) 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.

(4) A licence may be issued subject to any limitations that have been agreed in a settlement proposal or that have been imposed by the Hearing Committee.

(5) The Registrar shall advise an applicant in writing within a reasonable time whether registration or licensing has been granted or withheld and of any conditions that were imposed.

17 Any person may appeal to the Registration Appeals Committee established pursuant to the regulations

- (a) the decision of the Registrar to refuse to register or licence that person; or
- (b) conditions imposed on a licence by the Registrar.

18 A person who has been licensed to practise pharmacy in any other jurisdiction who applies for registration pursuant to this Act shall provide the Registrar with or authorize the Registrar to obtain complete records of complaints, discipline, competency and capacity matters from those other jurisdictions and the person's complete registration record in those jurisdictions.

19 (1) The Registrar shall provide every person entitled to be registered to practise pharmacy pursuant to this Act with a certificate of registration as set out in the regulations.

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

20 (1) Every person who is engaged in the practice of pharmacy shall, in each year, comply with the requirements of the regulations respecting licence renewal.

(2) The licence of a registrant who fails to comply with the requirements of the regulations respecting licence renewal is suspended and, while suspended, the registrant is not entitled to practise pharmacy.

(3) The licence of a registrant whose liability insurance coverage lapses during the licence year is suspended until the Registrar receives proof that the insurance coverage has been reinstated and, while it is suspended, the registrant is not entitled to practise.

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

(5) A licence suspended pursuant to this Section shall be renewed if the registrant complies with the requirements of the regulations.

21 A registrant whose application to resign from the register has been accepted by the Registrar continues to be responsible for the consequences of any matter arising before the acceptance of the resignation.

PHARMACIES

22 (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, in a hospital pharmacy, or as permitted by another Act or by the regulations.

23 (1) The Registrar shall issue a pharmacy licence with respect to a pharmacy if

- (a) the owner and the manager each certify to the Registrar that the pharmacy complies with the requirements of the regulations and that to the best of their knowl-

edge no registrant employed in the pharmacy lacks the capacity or professional competence to practise pharmacy safely;

(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 this Act and the regulations; and

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

(2) A decision of the Registrar refusing to license a pharmacy may be appealed to the Registration Appeals Committee in accordance with the regulations.

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

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

(5) 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.

(6) A licence suspended pursuant to this Section shall be renewed if the pharmacy complies with subsection (1).

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

(2) 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.

(3) The Registrar may furnish to any person, on request, a list of licensed pharmacies with addresses and contact information.

(4) A certificate from the Registrar or the Deputy Registrar to the effect that a pharmacy has or does not have a current licence as a pharmacy must be received in evidence in any court as proof of the facts stated, without further proof.

25 (1) Accreditation for a pharmacy in the name of the owner shall be granted by the Registrar on confirmation that the pharmacy meets the requirements of the regulations.

(2) Accreditation terminates if the ownership of the pharmacy is changed.

(3) Accreditation is not a licence to operate a pharmacy.

26 (1) A pharmacy licence must be issued with respect to an accredited pharmacy 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 a new manager upon compliance with this Act and the regulations.

(4) The owner of a pharmacy may designate a pharmacist to act in the absence or disability of the pharmacy manager and shall notify the Registrar that the pharmacist has been so designated.

27 (1) Every pharmacy must be under the supervision of a pharmacist or certified dispenser when open to provide pharmacy services to the public.

(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 Section.

(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 Section.

(4) No person who is not a pharmacist or certified dispenser may be in the pharmacy except in accordance with the regulations.

28 (1) The manager of every licensed pharmacy shall give the Registrar written notice of the names of the manager of the pharmacy, any pharmacist designated to act in the absence or disability of the manager and of all registrants employed in the pharmacy.

(2) The manager of every licensed pharmacy shall give the Registrar written notice of any changes in the names of registrants employed in the pharmacy.

(3) The manager of a pharmacy shall notify the Registrar, in writing, before ceasing to manage the pharmacy.

(4) The owner of a pharmacy shall notify the Registrar in writing before ceasing 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 in writing.

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

(7) A 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 accreditation and a pharmacy licence have been obtained.

29 Neither an owner nor a pharmacy manager shall permit a registrant who does not have the capacity or professional competence to practise pharmacy to be in the pharmacy.

30 (1) The pharmacist on duty in 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 all activity in the pharmacy and 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 RESPONSIBILITIES

31 (1) The practice of pharmacy promotes

(a) health, patient safety and the prevention and treatment of diseases, dysfunctions and disorders through drug and non-drug therapy; and

(b) public safety and drug security through the supervision and management of drug distribution systems.

(2) The primary responsibilities of a registrant are

(a) to use the registrant's knowledge and skills, in collaboration with patients and other health-care professionals, to meet the health and drug-related needs of patients to achieve, so far as possible, optimal patient outcomes and patient safety; and

(b) to manage drug distribution systems within the practice of pharmacy to maintain the quality and security of drugs for patient and public safety.

32 (1) A pharmacist, in the practice of pharmacy, is responsible for

(a) the interpretation, evaluation and validation of prescriptions;

(b) providing information and education respecting drug and non-drug therapy;

(c) compounding, preparing and dispensing drugs and devices accurately;

(d) taking all reasonable steps to ensure pharmaceutical and therapeutic appropriateness of drug therapy;

(e) monitoring drug therapy;

(f) identifying and assessing problems relating to drugs or devices and taking action to prevent or resolve these problems;

(g) counselling patients respecting drug and non-drug therapy;

(h) maintaining the security of, and protecting the integrity of, drugs and devices;

(i) maintaining and preserving records for patients, drugs and devices;

(j) preserving the confidentiality of patient information;

(k) overseeing activities in the pharmacy;

- (l) ensuring the appropriate level of supervision and direction for employees of the pharmacy under the pharmacist's authority;
- (m) overseeing the management, operation and control of pharmacies;
- (n) overseeing the sale of drugs and devices;
- (o) complying with, and requiring compliance with, this Act, the regulations and other enactments related to the practice of pharmacy; and
- (p) undertaking such other professional services as are authorized by law.

(2) Subject to any requirements set out in the regulations, a pharmacist who has any additional qualifications set out in the regulations may

- (a) prescribe drugs and treatments;
- (b) order, receive, conduct and interpret tests and services needed to properly manage drug therapy;
- (c) directly administer drug therapy to patients; and
- (d) engage in collaborative or alternative practice.

(3) A pharmacist providing indirect patient care may be engaged in research, education, management, administration, regulation or policy or system development relevant to the practice of pharmacy.

33 The practice of a pharmacy technician is that part of the practice of pharmacy specified in the regulations.

34 (1) A pharmacy technician may only practise pharmacy under the direction of a pharmacist who is present in the pharmacy.

(2) An intern may only practise pharmacy under the direction of a pharmacist who is present in the pharmacy, including in a hospital pharmacy.

(3) A registered student may only practise pharmacy under the supervision of a pharmacist who is present in the pharmacy, including in a hospital pharmacy.

(4) A pharmacy technician, intern or registered student may only practise pharmacy if the technician, intern or student is satisfied that the required direction or supervision is being provided.

35 (1) A pharmacist may delegate to a pharmacy technician, intern, registered student or other person such duties and responsibilities as are authorized by the regulations, subject to any conditions set out in the regulations.

(2) A pharmacist who delegates is responsible for taking reasonable steps to confirm the competence of the person to whom a duty or responsibility is delegated.

(3) No registrant shall perform any activity or accept any responsibility that the registrant is not licensed to or competent to perform.

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

(2) A pharmacy shall not 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) No employee of a pharmacy shall disclose any patient record to any person except as expressly provided in this Act.

(4) A pharmacy 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.

(5) A pharmacy shall disclose relevant information from patient records to

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

(b) 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;

(c) the Registrar, an inspector, an investigator and any person specifically authorized by the Registrar; and

(d) 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, if the other regulatory body provides equivalent information to the College.

(6) A pharmacy may disclose relevant information from patient records to other health professionals, who have a duty of confidentiality, if the disclosure will, in the pharmacist's professional judgement, enhance optimal patient care and patient safety.

(7) Subject to any restrictions imposed by the regulations, a pharmacy may disclose relevant information from patient records for the purpose of scientific research, if the names of patients are not disclosed and the research is approved pursuant to any applicable federal or Provincial legislation.

(8) 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.

37 (1) Every registrant who dispenses a prescription, 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 Government of the Province or a department or agency of the Government of the Province.

(2) Where a drug is prescribed by its common, generic, chemical or proper name, the registrant 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.

38 It is the duty of a registrant to co-operate with any professional accountability investigation, whether or not the registrant is the respondent, to provide any information requested by the Registrar, an investigator, the Investigation Committee, the Hearing Committee or the Reinstatement Committee, and to appear before the Investigation Committee, the Hearing Committee or the Reinstatement Committee when required to do so by the Registrar or any member of the committee.

PROFESSIONAL ACCOUNTABILITY

39 (1) In accordance with the purpose of the College, and in the public interest, the professional accountability process seeks to address complaints of professional misconduct, conduct unbecoming, professional incompetence, incapacity and offences against this Act or the regulations.

(2) No registrant or pharmacy owner shall engage in any acts that constitute professional misconduct, conduct unbecoming, professional incompetence, incapacity or an offence against this Act or the regulations.

40 (1) All complaints received or under investigation, all information gathered in the course of the professional accountability process and all proceedings and decisions of the Investigation Committee, the Fitness to Practise Committee, the Hearing Committee, the Registration Appeals Committee and the Reinstatement Committee that are not open to or available to the public in accordance with this Act or the regulations must be kept confidential by anyone who possesses the information.

(2) Notwithstanding subsection (1), where it is consistent with the purpose of the College,

(a) the Registrar shall, on the recommendation of a statutory committee, disclose any information about possible criminal activity on the part of a registrant that is obtained during an investigation pursuant to this Act to a law enforcement agency;

(b) a statutory committee may authorize the Registrar to release specific information to a specific person, including the regulatory authority of another health professional, if the committee considers it to be in the public interest to do so;

(c) the Registrar may disclose information with respect to a complaint or a matter before the Fitness to Practise Committee to another pharmacy regulatory body if it is relevant and concerns the fitness of the registrant for membership in that other pharmacy regulatory body;

(d) the Registrar shall inform the manager of the pharmacy that employs the registrant, or the owner if the manager is the subject of the complaint, of the fact of and content of any complaint, and of the resolution of the complaint; and

(e) the Registrar may disclose information with respect to a complaint for purpose of administration of this Act or to comply with the purpose of the College.

(3) Any patient record or patient information disclosed to the College is subject to the same provisions respecting confidentiality and non-disclosure set out in this Act as if the information continued to be held by the registrant or pharmacy.

(4) A decision of the Investigation Committee or the Hearing Committee is not admissible in a civil proceeding other than an appeal or a review pursuant to this Act.

41 (1) A witness in any legal proceeding, whether a party to the proceeding or not, shall not answer any question as to any proceedings of a statutory committee, and shall not produce any report, statement, memorandum, recommendation, document or information prepared for the purpose of the professional accountability process, including any information gathered in the course of an investigation or produced for a statutory committee.

(2) Subsection (1) does not apply to documents or records that have been made available to the public by the College.

(3) Information disclosed pursuant to Section 40 is deemed not to have been made available to the public, and the provisions respecting confidentiality and non-disclosure set out in this Act continue to apply.

42 (1) The Registrar may appoint an inspector.

(2) The Registrar and the Deputy Registrar are inspectors.

(3) The Registrar may appoint an investigator to conduct, direct or assist in the investigation of a complaint.

43 (1) An inspector or an investigator may, at any reasonable time, without a court order,

(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 registrant concerning the registrant'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, inspect or audit the practice of pharmacy or the carrying out of 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 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

(i) drugs or devices the inspector considers unfit for sale,

(ii) drugs or devices for which the expiry date has passed, or

(iii) anything that in the opinion of the inspector is evidence of professional misconduct, conduct unbecoming, professional incompetence, incapacity or a violation of this Act or the regulations.

(2) Where a drug or device has been removed under clause (1)(i), it may be disposed of as directed by the Hearing Committee or the Investigation Committee unless the Court has ordered otherwise.

(3) An inspector or an investigator 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 or an investigator 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.

44 (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 or an investigator.

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

(3) Where a registrant or pharmacy does not co-operate with, misleads or obstructs an inspector or an investigator, the Registrar may suspend the registration and licence of the registrant or pharmacy until the fault is corrected.

45 (1) The Registrar may require a registrant or pharmacy to

(a) submit to an inspection or audit of the practice of the registrant by such qualified persons as the Registrar designates;

(b) submit to such examinations as the Registrar directs to determine whether the registrant is competent to practise pharmacy;

(c) submit to such examinations as the Registrar directs to determine whether the registrant is incapacitated;

(d) produce records and accounts kept with respect to the registrant'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 registrant or pharmacy fails to comply with subsection (1), the Registrar may suspend or restrict the registration and licence of the registrant or pharmacy until the registrant or pharmacy complies.

46 (1) A complaint may be initiated by any person, including the Registrar.

(2) A complaint may not be withdrawn by a complainant unless the Registrar or any committee to which the complaint has been referred consents.

47 The conduct, capacity, practice or professional competence of a registrant or pharmacy owner may be subject to the professional accountability process in accordance with the regulations

(a) upon receipt of a written complaint;

(b) upon receipt by the College of information that, in the opinion of the Registrar, calls the conduct, capacity, practice or professional competence of a registrant or pharmacy owner into question; or

(c) when a registrant is subject to a licensing sanction in another jurisdiction.

48 The Council shall appoint an Investigation Committee, which must include at least one public representative, to consider matters pursuant to this Act and the regulations as set out in the regulations.

49 (1) The Investigation Committee, acting in the public interest, with or without hearing a registrant, may direct the Registrar to

(a) suspend a licence to practise pharmacy;

(b) impose restrictions or conditions on a respondent's licence to practise pharmacy;

(c) where a registrant does not hold a current licence, suspend the ability of the registrant to obtain a licence; or

(d) suspend the licence of a pharmacy,

pending, during or following the completion of an investigation and lasting until the suspension, restrictions or conditions are lifted, superseded or annulled by the Investigation Committee or the Hearing Committee.

(2) The registrant or pharmacy must forthwith be served with a notice in writing, with reasons, of any decision made pursuant to subsection (1).

(3) A registrant or pharmacy that receives written notice pursuant to subsection (2) may request, in writing within thirty days, an opportunity to meet with the Investigation Committee.

(4) Where a request is received pursuant to subsection (3), the Investigation Committee shall

(a) provide an opportunity for the registrant to meet with the Committee as soon as possible after receipt of the written request; and

(b) after meeting with the registrant, confirm, vary or terminate the suspension, restrictions or conditions imposed pursuant to subsection (1).

(5) Where the Investigation Committee issues an interim suspension, conditions or restrictions on a respondent's licence, the Committee shall provide a copy of the decision to the complainant and the respondent and shall determine whether any aspects of the Committee's decision should be provided to other affected individuals, other jurisdictions, any past, present or intended employer of the respondent or the public.

(6) Where the Investigation Committee exercises any of its powers pursuant to subsection (1), the matter must be dealt with as a complaint pursuant to this Act and the regulations.

(7) Where the Investigation Committee exercises any of its powers pursuant to subsection (1) and has not determined that its actions should be terminated at the completion of its investigation and the matter has not been referred to the Fitness to Practise Committee, the matter must be referred to the Hearing Committee and the suspension, conditions or restrictions remain in force with such variations as the Investigation Committee may from time to time consider desirable until the decision of the Hearing Committee is rendered.

50 (1) The 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.

(2) The Investigation Committee may require the respondent to

(a) participate in a review of the respondent's practice by a qualified person or persons designated by the Committee, and authorize a copy of the review to be given to the Committee;

(b) complete a competence assessment or other assessment or examination the Committee directs to determine whether the respondent is competent to practise, and authorize the assessment or examination report to be given to the Committee;

(c) produce any records or documents kept about the respondent's practice requested by the Committee;

(d) submit to physical or mental examinations by a qualified person or persons designated by the Committee, and authorize the reports from the examinations to be given to the Committee;

(e) respond in writing to any questions forwarded by the Committee;

(f) appear in person before the Committee;

(g) submit representations, explanations and documentation relevant to the complaint,

and, where a respondent fails to comply with a direction of the Committee, the Committee may suspend or restrict the respondent's licence until the suspension or restriction is lifted, superseded or annulled by the Investigation Committee or the Hearing Committee.

(3) The Investigation Committee or an investigator may require the respondent, or any other registrant who may have information relevant to the investigation, to attend before the committee or the investigator to be interviewed.

(4) The Investigation Committee shall

(a) where it does not consider that the evidence that might reasonably be believed could support a finding of professional misconduct, conduct unbecoming, professional incompetence or incapacity, or a breach of this Act or the regulations,

(i) dismiss the complaint, or

(ii) counsel the respondent if the Committee determines the respondent could benefit from professional guidance;

(b) where it determines that the registrant has breached the standards of professional ethics or practice in circumstances that do not constitute professional misconduct, conduct unbecoming, professional incompetence or incapacity, caution the respondent;

(c) where it considers that the evidence that might reasonably be believed could support a finding of professional misconduct, conduct unbecoming, professional incompetence or incapacity or a breach of this Act or the regulations,

(i) with the respondent's consent, order that the respondent receive a reprimand and that the reprimand be communicated to the respondent, the complainant and any other person the Committee considers appropriate,

(ii) with the respondent's consent, impose conditions or restrictions, or both, on the respondent's licence, or

(iii) refer the matter, in whole or in part, to the Hearing Committee.

51 (1) Where a registrant

(a) has been charged with, pleaded guilty to, been convicted or been found to be guilty of any offence in or out of Canada that is inconsistent with the proper professional behaviour of a registrant, including a conviction under the *Criminal Code* (Canada), the *Food and Drug Act* (Canada), the *Controlled Drug and Substances Act* (Canada) or such other legislation as is set out in the regulations, unless a pardon has been issued;

(b) has been found guilty of a disciplinary finding in another jurisdiction;

(c) has had a licensing sanction imposed by another jurisdiction;

(d) is in breach of a settlement agreement;

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

(f) is the subject of an investigation or disciplinary process in any jurisdiction,

or it is otherwise required pursuant to this Act or the regulations, the Registrar shall immediately refer the matter to the Hearing Committee with a summary of the matter to be addressed, and shall provide the person with a copy of the summary.

(2) The Hearing Committee shall hear such evidence as is offered by the registrant as to why the registrant should not be subject to disciplinary action.

(3) The Hearing Committee shall determine whether disciplinary action should be taken.

(4) Where the Hearing Committee determines that disciplinary action should be taken, it may take any of the actions authorized by this Act.

(5) For the purpose of this Section, a certificate of conviction is conclusive evidence that the person committed the offence stated in the certificate unless it is proved that the conviction has been quashed or set aside.

(6) When a registrant is the subject of any matter set out in subsection (1), the registrant shall immediately report the matter to the Registrar.

(7) A pharmacy manager shall report to the Registrar any matter set out in subsection (1) that, to the manager's knowledge, affects any employee of the pharmacy.

52 (1) The Council shall appoint a Fitness to Practise Committee, which must include at least one public representative, to consider cases where registrants may be incapacitated, when consistent with the objectives of the professional accountability process and if it is in the public interest to do so.

(2) Where

(a) a complaint concerns a registrant's incapacity;

(b) the investigation of a complaint raises the question of a registrant's incapacity;

(c) a person raises questions about the possible incapacity of a registrant to the College in the absence of a complaint; or

(d) a registrant self reports incapacity to the College,

the Registrar or the Investigation Committee may, where it is in the public interest to do so, and with the consent of the registrant, refer the matter to the Fitness to Practise Committee in accordance with the regulations.

(3) Where a matter is referred to the Fitness to Practise Committee, the matter shall be addressed in accordance with this Act and the regulations.

(4) The Fitness to Practise Committee may refer a matter to the Investigation Committee in accordance with the regulations, in which case the matter is a complaint and must be dealt with as a complaint in accordance with this Act and the regulations.

53 (1) The Council shall appoint a Hearing Committee, which must include at least one public representative, to hear complaints pursuant to this Act and the regulations as set out in the regulations.

(2) No person on the Hearing Committee may concurrently serve on the Investigation Committee or the Fitness to Practise Committee.

54 (1) Where the Investigation Committee refers a matter to the Hearing Committee, the Hearing Committee shall fix a date, time and place for holding a hearing.

(2) A notice of hearing, containing such information as is required by the regulations, must be forwarded by the Registrar to the respondent and the complainant at least thirty days before the hearing.

55 Where the Investigation Committee refers a matter to the Hearing Committee, before the commencement of a hearing by the Hearing Committee, the College and the respondent may enter into a settlement proposal, and the proposal must be dealt with in accordance with the regulations.

56 (1) A proceeding held by the Hearing Committee must be conducted in accordance with the regulations.

(2) The Hearing Committee may

- (a) determine its own procedure;
- (b) issue subpoenas and enforce the attendance of witnesses and compel them to give oral or written evidence on oath and to produce such documents and things as the Committee considers necessary for the full consideration of the matter;
- (c) order pre-hearing procedures, including pre-hearing conferences that are held in private, and direct the times, dates and places of the hearing for those procedures;
- (d) order that a hearing, parts of a hearing or pre-hearing conference be conducted using a means of telecommunication that permits the parties and the Committee to communicate simultaneously;
- (e) administer oaths and solemn affirmations;
- (f) receive and accept such evidence and information on oath, affidavit or otherwise as the Committee in its discretion sees fit, whether admissible in a court of law or not;
- (g) prescribe the disclosure obligations of the parties before a hearing;
- (h) compel, at any stage of a proceeding, any person to provide information or to produce documents or things that may be relevant to the matter before it;
- (i) adjourn or postpone a proceeding from time to time;
- (j) amend or permit the amendment of any document filed in connection with the proceeding, including the notice of hearing and particulars of any matter contained therein;

(k) make interim orders to affirm, amend or rescind any outstanding order of the Investigation Committee;

(l) approve or reject a settlement proposal.

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

(4) In a proceeding before the Hearing Committee, the parties have the right to

(a) be represented by legal counsel or another representative;

(b) the opportunity to present evidence and make submissions, including the right to cross-examine witnesses; and

(c) receive written reasons for a decision within a reasonable time.

(5) Each party must be given

(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.

(6) Where subsection (5) was not complied with, the Hearing Committee may, in its discretion, allow the introduction of evidence subject to such directions as the committee considers necessary to ensure that no party is prejudiced.

(7) 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 Committee, and the summons has the same effect as if it had been issued by a prothonotary of the Court.

(8) The Hearing Committee may order the respondent to do any one or more of the following:

(a) submit to physical or mental examinations by a qualified person or persons designated by the Committee and authorize examination reports to be given to the Committee;

(b) submit to a review of the respondent's practice by a qualified person or persons designated by the Committee and authorize a copy of the review to be given to the Committee;

(c) submit to a competence assessment or other assessment or examination the Committee directs to determine whether the respondent is competent to practise pharmacy and authorize the assessment report or examination to be given to the Committee;

(d) produce any records kept about the respondent's practice that the Committee considers appropriate;

(e) submit to an inspection or audit of a pharmacy by a qualified person designated by the Committee;

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

and, where a respondent fails to comply with a requirement under this subsection, the Committee may suspend the respondent's licence or ability to obtain a licence until the respondent complies.

(9) A respondent shall appear at the hearing.

(10) In the event of non-attendance by the respondent, the Hearing Committee, upon proof that the respondent was served with the notice of the hearing, may proceed with the hearing without further notice to the respondent, render its decision and take such other action as it is authorized to take pursuant to this Act and the regulations.

(11) Where the Hearing Committee has required a respondent 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 respondent with a copy of any report it receives from the designated qualified person.

(12) 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 from the designated qualified person.

57 (1) Where the Hearing Committee finds professional misconduct, conduct unbecoming, professional incompetence or incapacity on the part of a respondent, the Committee may do any one or more of the following in the Committee's disposition of the matter:

(a) revoke the respondent's registration or any licence, or both, held by the respondent and direct the Registrar to remove the respondent's name from the register;

(b) where a registration or licence is revoked, determine whether the registrant is entitled to apply for reinstatement of the licence, or whether the revocation is final;

(c) authorize the respondent to resign from the College or cease to be licensed and direct the Registrar to remove the respondent's name from the register once the respondent has resigned;

(d) suspend the respondent's licence for a specific period of time;

(e) suspend the respondent's ability to apply for a licence for a specified period of time;

(f) suspend the respondent's licence until any conditions the Committee orders are complied with;

(g) impose any restrictions or conditions, or both, on the respondent's licence;

(h) reprimand the respondent and direct that the reprimand be recorded in the records of the College;

(i) direct the respondent to pass a particular course of study or satisfy the Committee or any other committee established under this Act of the respondent's professional competence to practise;

(j) direct the respondent to undergo medical treatment;

(k) direct the respondent to obtain any counselling that the Committee considers appropriate;

(l) direct the respondent to pay a fine in an amount determined by the Committee;

(m) direct the respondent to pay all or part of the costs incurred by the College in the investigation and prosecution of the complaint;

(n) publish or disclose its findings in accordance with this Act and the regulations.

(2) In determining the disposition to be made under subsection (1), the Hearing Committee shall consider any relevant previous professional accountability decision respecting the respondent, including undertakings and consents whether as part of a settlement agreement or otherwise.

(3) Where a registrant fails to comply with an order of the Hearing Committee to pay a fine or to pay the costs of the College, except according to a payment arrangement approved by the Registrar and with which the registrant is in compliance, the Registrar shall suspend the registrant's licence until the registrant complies.

(4) Where the Hearing Committee determines that a registrant whose licence has been revoked may apply for reinstatement, the registrant may apply for reinstatement at any time after five years from the date of the Committee's decision.

58 (1) A party may appeal on any point of law from the findings of the Hearing Committee to the Nova Scotia Court of Appeal.

(2) The notice of appeal must be served upon the other party not later than thirty days after service of the decision of the Hearing Committee.

(3) The record on appeal from the findings of the Hearing Committee consists of a copy of the transcript of the proceedings, the decision of the Committee and the evidence before the Committee certified by the Chair of the Committee.

(4) The *Civil Procedure Rules*, governing appeals from the Supreme Court of Nova Scotia to the Nova Scotia Court of Appeal, that are not inconsistent with this Act, apply with all necessary changes to appeals to the Court of Appeal pursuant to this Section.

(5) Where a matter is appealed to the Nova Scotia Court of Appeal pursuant to this Section, the decision of the Hearing Committee takes effect immediately, unless the Court of Appeal grants a stay of its order.

59 (1) The Council shall appoint a Reinstatement Committee, which must include at least one public representative, to hear applications from former registrants showing cause why the former registrant should be reinstated.

(2) The Reinstatement Committee has all of the powers of the Hearing Committee.

(3) The Reinstatement Committee shall, in the circumstances set out in this Act and the regulations, review applications for reinstatement of a licence and perform such other duties as are set out in this Act and the regulations.

(4) Applications for reinstatement shall proceed in accordance with the regulations.

60 (1) Where a registrant's licence has been reinstated, the Reinstatement Committee, in its discretion, shall determine whether publication of the reinstatement is required in the interest of the public.

(2) Where the Reinstatement Committee accepts a reinstatement application, the Committee may impose any restrictions and conditions it considers appropriate relating to the reinstatement of the applicant, and the applicant must satisfy all criteria required for a licence.

(3) An applicant for reinstatement is responsible for all of the applicant's own expenses incurred in the reinstatement application and proceeding, and is also responsible for all of the costs incurred by the College in the reinstatement application, whether the application is accepted, rejected or withdrawn.

(4) In a proceeding before the Reinstatement Committee, a registrant has the right to

(a) be represented by legal counsel or another representative at the registrant's expense; and

(b) a reasonable opportunity to present a response and make submissions.

(5) Where a registrant fails to pay the costs of the College, except according to a payment arrangement approved by the Registrar and with which the registrant is in compliance, the Registrar shall suspend the registrant's licence until the registrant complies.

61 A statutory committee

(a) has the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*;

(b) has the powers conferred by this Act and the regulations; and

(c) subject to this Act and the regulations, sets its own procedure for meetings and hearings.

62 Where

(a) the period of suspension of a registrant has expired;

(b) the conditions imposed on the registrant have been satisfied; or

- (c) the restrictions imposed on the registrant have been removed,

the Registrar shall restore the licence to practise to the registrant in the form it existed before the imposition of the suspension, conditions or restrictions, if the registrant otherwise meets the criteria for the issuing of a licence or, where the licence has expired, the renewal of licence.

63 (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 patient records, the Registrar may appoint a custodian who is a licensed pharmacist to take such steps as may be necessary to preserve patient records and facilitate the transfer of prescriptions.

(2) 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.

(3) 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 a patient to make that information available.

(4) 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.

(5) The owner or manager of a pharmacy in respect of which 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 the order and to direct the custodian to place all or part of the patient records back into the possession of the pharmacy upon such terms as may be just.

(6) The owner or manager of a pharmacy in respect of which 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.

- (7) This Section applies to a pharmacy whether or not it has a current licence.

64 (1) A custodian shall give notice to patients, physicians and the general public that the custodian has possession of the patient records of a pharmacy.

(2) The notice required by subsection (1) must be given by newspaper advertisements and notices affixed to the pharmacy premises unless the Council directs that additional notice be given.

(3) The custodian shall report to the Council concerning the notices provided and action taken during the custodianship when required to do so by the Council.

(4) Upon receipt of a custodian's report required by subsection (3), the Council may discharge the custodian, or make any order it considers appropriate regarding any patient records remaining in the hands of the custodian.

(5) The custodian's compliance with an order of the Council discharges the custodian in respect of those patient records affected by the Council's order.

UNAUTHORIZED PRACTICE

65 (1) Except as expressly provided by this Act or the regulations, a person who does not hold a valid licence pursuant to this Act shall not

- (a) practise or attempt to practise pharmacy;
- (b) 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
- (c) dispense or compound drugs.

(2) A person who does not hold a valid licence as a pharmacist shall not assume or use the title of "pharmacist", "druggist", "pharmaceutical chemist" or "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 a licensed pharmacist pursuant to this Act.

(3) No person who does not hold a valid licence as a pharmacy technician pursuant to this Act shall assume or use the title of "pharmacy technician", "registered pharmacy technician", "regulated pharmacy technician", "pharmacy technologist", "dispensary technician", "dispensary technologist" or words of like import, the designation R.Ph.T., R.P.T., Pharm. Tech. or a similar abbreviation or any other words or abbreviations to imply that the person is a licensed pharmacy technician pursuant to this Act.

(4) Nothing in this Act prevents any person from selling goods of any kind to any medical practitioner, dentist or veterinary surgeon, or other person authorized by law to prescribe drugs or devices, nor prevents the members of those professions supplying to their patients such medicines as they may require.

(5) Subsection (1) does not limit the authorized activities of any other health professional.

66 (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", "drugateria" or "apothecary";
- (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.

67 (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 a 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.

68 (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 must be given to the person against whom it is to be used, together with a copy of the certificate.

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

70 (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 misleads, obstructs, harasses or physically or verbally abuses a person who is lawfully exercising powers under this Act, the regulations or the by-laws is guilty of an offence.

(3) A person who commits an offence under this Act 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.

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

(5) Where a penalty imposed pursuant to subsection (2) as a result of a prosecution by or on behalf of the College 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.

(6) All fines and penalties payable under this Act or under the *Summary Proceedings Act* as a result of a prosecution by or on behalf of the College belong to the College and are to be paid to the Registrar.

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

72 (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 proof of a designation pursuant to subsection (1).

73 The owner and the manager of a pharmacy are 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 the manager, as the case may be.

74 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 proof in the absence of evidence to the contrary that the person or premises are not licensed pursuant to this Act.

GENERAL

75 (1) No action for damages or other relief lies against the College, the Council, the persons on the Council, committees or subcommittees of the College or the Council, or the persons on the committees or subcommittees or the Registrar, officers, agents or employees of the College

(a) for any act or failure to act, or any proceeding initiated or taken, in good faith under this Act, or in carrying out the duties or obligations under this Act; or

(b) for any decision, order or resolution made or enforced in good faith under this Act.

(2) No action lies against any person for the disclosure of any information or any document or anything therein pursuant to this Act unless the disclosure is made with malice.

(3) No registrant, member of the Council or of a committee or subcommittee of the College or the Council, or any officer, agent or employee thereof is personally liable for any of the debts or liabilities of the College, unless the person expressly agrees to be liable.

76 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.

77 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.

78 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.

79 No action may 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.

80 (1) The Council may make regulations respecting

(a) prescribing entry-level competencies required to be demonstrated in order to be licensed as a registrant or class of registrant;

(b) determining language requirements, competence in jurisprudence and examinations required to be proven or taken before a person can be registered;

(c) the time after graduation, practice experience or last practice within which a person must apply to be registered;

(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 registration 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 program for the purpose of practice experience;

(h) determining what is an acceptable program to meet the requirements for continuing education;

(i) standards for pharmacies;

(j) requirements for pharmacy managers;

(k) responsibilities of pharmacy managers;

- (l) opening, closing and transferring pharmacies;
- (m) the conditions under which and the times when persons who are not pharmacists or certified dispensers may be in a pharmacy;
- (n) authorizing a pharmacist to delegate certain duties and setting conditions on any such delegation, pursuant to subsection 35(1);
- (o) standards for dispensing, including validation of prescriptions, labelling and packaging;
- (p) determining the requirements for confirming continuing competency, quality assurance and effective practice;
- (q) pharmacy information and signage;
- (r) advertising;
- (s) requirements to separate the pharmacy from adjacent areas;
- (t) responsibilities of preceptors;
- (u) supervised practice;
- (v) the length of time for which a licence is valid;
- (w) requirements for liability insurance coverage;
- (x) prescribing forms and procedures for the purpose of this Act or the regulations and the information, including personal information, that must be provided.

(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 registrant.

(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 and Wellness within thirty days after it is made.

81 (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; and

(b) the manner in which prescriptions must 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 pro-

vide that it is adopted as amended from time to time, except such amendments as are expressly disallowed by the Council.

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

(5) A certified copy of any regulation made pursuant to this Section must be filed with the Minister of Health and Wellness.

82 (1) Subject to the approval of the Governor in Council, the Council may make regulations

- (a) respecting requirements for registration and licensing as a pharmacist;
- (b) specifying the parts of the practice of pharmacy that constitute the practice of a pharmacy technician;
- (c) respecting requirements for registration and licensing as a pharmacy technician;
- (d) respecting requirements for continuing competence;
- (e) respecting rules for alternative or collaborative practice;
- (f) respecting requirements for practice experience for registrants;
- (g) respecting requirements for continuing education;
- (h) imposing conditions on the practice of pharmacy technicians, interns and registered students;
- (i) requiring the successful completion of remedial programs where a member has been shown to have less than the required level of professional competence or who is incapacitated;
- (j) authorizing the imposition of conditions or limitations on the licence of any registrant who has been shown to have less than the required level of professional competence or who is incapacitated;
- (k) specifying additional statutes for the purposes of clause 51(1)(a);
- (l) respecting the professional accountability process, policies and procedures, including, without limiting the generality of the foregoing,
 - (i) establishing processes for receiving and responding to complaints or other information concerning the conduct, capacity, practice or professional competence of registrants,
 - (ii) establishing processes for investigating the conduct, capacity, practice or professional competence of a registrant,
 - (iii) prescribing the composition of a statutory committee, provided that a majority of the members of the committee are registrants,
 - (iv) determining the criteria for the chair and vice-chair of a statutory committee,
 - (v) determining the quorum for a statutory committee,

- (vi) determining the manner in which the members of a statutory committee shall be notified of a meeting and the consequences, if any, of failing to receive notice,
- (vii) determining the means by which a statutory committee makes decisions,
- (viii) prescribing the circumstances in which a member of a statutory committee whose term has expired may remain as a member of the committee with respect to matters in which that member of the committee has been involved have concluded,
- (ix) establishing the processes, practices and procedures of a statutory committee,
- (x) prescribing the powers and functions of the Fitness to Practise Committee, and
- (xi) prescribing how to deal with a settlement proposal;
- (m) establishing a Registration Appeals Committee and prescribing the membership, power and procedures of the Committee;
- (n) respecting co-operative or collaborative regulation in common with the regulatory authority for another health profession;
- (o) respecting professional accountability in the context of collaborative or alternative practice;
- (p) respecting alternative pharmacies and the conditions applicable to them;
- (q) authorizing facilities that may be a pharmacy for the purpose of clause 2(al);
- (r) determining substances that are drugs for the purpose of clause 2(w);
- (s) imposing restrictions or conditions on the disclosure of information from patient records for scientific research;
- (t) respecting patient record preservation and transfer;
- (u) limiting the disclosure of, and protecting, patient information;
- (v) respecting duties and reports required of a custodian of patient records;
- (w) respecting the disposition of patient records in the possession of a custodian;
- (x) authorizing a person or class of persons to receive a prescription by direct communication for the purpose of clause 2(ap);
- (y) respecting the licensing of pharmacies;
- (z) respecting a process for the appointment of public representatives to the Council;
- (aa) respecting any matter or thing the Council considers 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 registrant.

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

83 (1) The Governor in Council may make regulations respecting

(a) the circumstances under which pharmacists may prescribe drugs and treatments;

(b) the authorizing and regulating of pharmacists directly administering drug therapy to patients;

(c) the authorizing and regulating of pharmacists ordering, receiving, conducting and interpreting tests and services needed to properly manage drug therapy;

(d) 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;

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

(f) the regulation of hospital pharmacies;

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

(h) defining of any word or expression used but not defined in this Act, including a special meaning applicable only to specific circumstances of practice;

(i) further defining any word or expression defined in this Act;

(j) respecting any matter or thing the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) In any regulation passed pursuant to this Section, 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 are expressly disallowed by the Governor in Council.

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

84 (1) Registrants and pharmacies licensed pursuant to the former 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.

(2) 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.

(3) A complaint made or professional accountability proceedings commenced before the coming into force of this Act shall be concluded under the former Act, as if this Act had not come into force.

(4) A complaint made after the coming into force of this Act, whether the conduct complained of occurred before or after the coming into force of this Act, shall be dealt with under this Act but, where the conduct took place before the coming into force of this Act, whether the conduct merits a penalty, and the penalty if any assessed, shall be determined pursuant to the former Act, as if this Act had not come into force.

(5) Upon the coming into force of this Act, any matter pending before the Investigation Committee that would properly form the subject of a matter for the Fitness to Practise Committee may, with the consent of the respondent, be referred to the Fitness to Practise Committee for resolution.

(6) Upon the coming into force of this Act, where a hearing has not commenced, any matter pending before the Hearing Committee that would properly be a matter for the Fitness to Practise Committee may, by agreement of the Hearing Committee and the respondent, be transferred to the Fitness to Practise Committee for resolution.

(7) Regulations and by-laws prescribed pursuant to the former Act continue in force until amended or replaced pursuant to this Act.

85 The former Act is repealed.

86 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
