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PHARMACY ACT 53 OF 1974

[Updated to 1 July 2005.**]

**Date of last changes incorporated into this Act.

(English text signed by the State President.)

(Assented to 9 October 1974.)

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Proc. R52, G. 4594

Amended

Act 36 of 1977 (G. 5481, with effect from 30 March 1977),
Act 20 of 1979 (G. 6361, with effect from 21 March 1979),
Act 39 of 1982 (G. 8098, with effect from 24 March 1982),
Act 20 of 1983 (G. 8602, with effect from 16 March 1983),
Act 69 of 1985 (G. 9801, with effect from 4 October 1985 [Proc. R178, G. 9953]),
Act 97 of 1986 (G. 10438, with effect from 3 October 1986 [Proc. 185, G. 10475]),
Act 94 of 1991 (G. 13343, with effect from 12 July 1991),
Act 6 of 1995 (G. 16368, with effect from 12 April 1995),
Act 88 of 1996 (G. 17599, with effect from 22 November 1996),
Act 45 of 1997 (G. 18335, with effect from 22 August 1997),
Act 88 of 1997 (G. 18525, commencement of ss 12 to 24, 27, 29, 30 and 44: 1 March 1998 [Proc. R19, G. 18707]),
Act 88 of 1997 (G. 18525, commencement of ss 12 to 20, 24, 27, 29 and 30: 20 November 2000 [Proc. R70, G. 21754]),
Act 1 of 2000 (G. 20886, with effect from 20 November 2000),
Act 88 of 1997 (G. 18525, commencement of ss 21, 22 and 23: 2 May 2003 [Proc. R25, G. 24627]),
Act 88 of 1997 (G. 18525, commencement of s 44: 1 July 2005 [Proc. R25, G. 24627]),
Act 10 of 2002 (G. 23480, with effect from 13 February 2004 [Proc. R15, G. 26034]).

General substitutions:

(1) Act 20 of 1983, s 7 substituted wherever they occur, for the expressions "trainee pharmacist" and "trainee pharmacists" of the expressions "pharmacist intern" and "pharmacist interns", respectively.

(2) Act 69 of 1985, s 15(1) substituted for the word "board" wherever it occurs, except in s 2, of the word "council".

ACT

To provide for the establishment of the South African Pharmacy Council and for its objects and general powers; to extend the control of the council to the public sector; and to provide for pharmacy education and training, requirements for registration, the practice of pharmacy, the ownership of

pharmacies and the investigative and disciplinary powers of the council; and to provide for matters connected therewith.

[Long title subs by s 12 of Act 6 of 1995, s 45 of Act 88 of 1997.]

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows.

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1. Definitions

In this Act, unless text otherwise indicates—

“body corporate” means any legal person registered in terms of any Act in operation in the Republic;
[“body corporate” ins by s 1(a) of Act 88 of 1997.]

“Ciskeian Medical Council” ...

[“Ciskeian Medical Council” ins by s 1(a) of Act 6 of 1995; rep by s 1(b) of Act 88 of 1997.]

“corporation” ...

[“corporation” ins by s 1(a) of Act 69 of 1985; rep by s 1(c) of Act 88 of 1997.]

“council” means the council referred to in section 2;

“Director-General” means the Director-General: Health or his or her nominee;

[“Director-General” ins by s 1(b) of Act 6 of 1995.]

“medicine” means medicine as defined in section 1 of the Medicines and Related Substances Control Act, 1965;

“member” means a member of the council;

“Minister” means the Minister of Health;

[“Minister” subs by s 1(b) of Act 69 of 1985, s 1(c) of Act 6 of 1995.]

“pharmaceutical technician” means a person registered as such under this Act;

“pharmacist” means a person registered as such under this Act;

“pharmacist intern” means a person registered as such in terms of this Act;

[“pharmacist intern” ins by s 1(a) of Act 20 of 1983; subs by s 1(d) of Act 88 of 1997.]

“pharmacist’s assistant” means a person registered as such under this Act;

[“pharmacist’s assistant” ins by s 1(a) of Act 20 of 1979.]

“pharmacy” means any place wherein or from which any service specially pertaining to the scope of practice of a pharmacist is provided;

[“pharmacy” subs by s 1(e) of Act 88 of 1997.]

“pharmacy practice” means acts specially pertaining to the scope of practice of a pharmacist as prescribed in terms of section 35A of this Act;

[“pharmacy practice” ins by s 1(f) of Act 88 of 1997.]

“pharmacy student” means a person registered as such in terms of this Act;

[“pharmacy student” ins by s 1(f) of Act 88 of 1997.]

“pharmacy support personnel” means the various categories of support personnel as prescribed and registered as such in terms of this Act;

[“pharmacy support personnel” ins by s 1(f) of Act 88 of 1997.]

“prescribe” or **“prescribed”** means prescribe or prescribed by regulation;

“president” or **“vice-president”** means the president or vice president of the council and includes a person lawfully acting as president or vice-president of the council, as the case may be, and for the purposes of section 40(1), a member acting as chairman at an inquiry referred to in section 39;

“register”, when used as a noun, means a register kept in accordance with the provisions of this Act, and when used in relation to any class or a member of any class of persons in respect of which a register is kept, means the register kept for that class and when used as a verb, means to enter in such register; the words “registered”, “registrable”, “registration” and all other words formed with or derived from the word “register” having a corresponding meaning;

“registrar” means the registrar of the council appointed in terms of section 4(u) of this Act or a person lawfully acting in that capacity;

[“registrar” subs by s 1(g) of Act 88 of 1997.]

“regulation” means any regulation made under this Act;

“Republic” ...

[“Republic” rep by s 1(d) of Act 6 of 1995.]

“responsible pharmacist” means a natural person who is a pharmacist and who shall be responsible to the council for complying with all the provisions of this Act and other legislation applicable to services which specially pertain to the scope of practice of a pharmacist, and the legislation applicable to the pharmacy which is under his or her personal supervision;

[“responsible pharmacist” ins by s 1(h) of Act 88 of 1997.]

“scheduled substance” means a scheduled substance as referred to in the Medicines and Related Substances Act, 1965 (Act 101 of 1965);

[“scheduled substance” subs by s 23 of Act 94 of 1991, “scheduled substance” subs by s 1(i) of Act 88 of 1997.]

“South African Pharmacy Council” ...

[“South African Pharmacy Council” ins by s 1(e) of Act 6 of 1995; rep by s 1(j) of Act 88 of 1997.]

“this Act” includes any proclamation, regulation, rule or order made under this Act;

“trainee pharmacist” ...

[“trainee pharmacist” rep by s 1(b) of Act 20 of 1983.]

“Transkeian Medical Council” ...

[“Transkeian Medical Council” ins by s 1(f) of Act 6 of 1995; rep by s 1(k) of Act 88 of 1997.]

“unprofessional conduct” means improper, disgraceful or dishonourable or unworthy conduct or conduct which, when regard is had to the profession of a person who is registered in terms of this Act, is improper or disgraceful or dishonourable or unworthy;

[“unprofessional conduct” ins by s 1(l) of Act 88 of 1997.]

“unqualified assistant” ...

[“unqualified assistant” rep by s 1(c) of Act 20 of 1979.]

“veterinarian” ...

[“veterinarian” ins by s 1(b) of Act 20 of 1979; rep by s 1(c) of Act 69 of 1985.]

CHAPTER 1

ESTABLISHMENT OF THE SOUTH AFRICAN PHARMACY COUNCIL, ITS OBJECTS, GENERAL POWERS AND FUNCTIONS

[Chapter heading subs by s 2 of Act 6 of 1995, s 2 of Act 88 of 1997.]

2. Establishment of South African Pharmacy Council

- (1) There is hereby established a juristic person to be known as the South African Pharmacy Council, which shall be deemed to be the successor-in-title of the Interim Pharmacy Council of South Africa, and the first meeting of the council shall be convened by the registrar.
- (2) The head office of the council shall be situated in Pretoria.
- (3) Any reference to the Interim Pharmacy Council of South Africa in any deed, document or Act shall be deemed to be a reference to the council established in terms of subsection (1) with effect from the date determined in accordance with section 51, and every registrar of deeds or the officer where an official record is kept shall on application by the registrar amend his or her records accordingly without it being necessary for the council to pay any transfer fees, duties or taxes.

[S 2 subs by s 2 of Act 69 of 1985, s 3 of Act 6 of 1995, s 3 of Act 88 of 1997.]

3. Objects of council

The objects of the council shall be—

- (a) to assist in the promotion of the health of the population of the Republic;
- (b) to advise the Minister or any other person on any matter relating to pharmacy;
- (c) to promote the provision of pharmaceutical care which complies with universal norms and values, in both the public and the private sector, with the goal of achieving definite therapeutic outcomes for the health and quality of life of a patient;
- (d) to uphold and safeguard the rights of the general public to universally acceptable standards of pharmacy practice in both the public and the private sector;
- (e) to establish, develop, maintain and control universally acceptable standards—
 - (i) in pharmaceutical education and training;
 - (ii) for the registration of a person who provides one or more or all of the services which form part of the scope of practice of the category in which such person is registered;
 - (iii) of the practice of the various categories of persons required to be registered in terms of this Act;
 - (iv) of professional conduct required of persons to be registered in terms of this Act; and

- (v) of control over persons registered in terms of this Act by investigating in accordance with this Act, complaints or accusations relating to the conduct of registered persons;
- (f) to be transparent to the profession and the general public in achieving its objects and in performing its functions and executing its powers; and
- (g) to maintain and enhance the dignity of the pharmacy profession and the integrity of persons practising that profession.

[S 3 am by s 4 of Act 6 of 1995, s 1 of Act 45 of 1997; subs by s 4 of Act 88 of 1997.]

4. General powers of council

[Section heading subs by s 5(a) of Act 88 of 1997.]

The functions of the council shall be to endeavour to achieve the objects for which it was established, and for the purpose of achieving those objects the council shall, subject to the provisions of this Act, have power, in addition to any other powers vested in it by this Act—

- (a) to cause copies of the registers or of supplementary lists showing amendments of the registers, to be printed and published;
- (b) to issue extracts from the registers and to charge such fees in respect thereof as may be prescribed;
- (c) to require any registered person to pay to the council the prescribed annual fee;
- (d) in such circumstances as may be prescribed, or where otherwise authorised by this Act, to remove any name from the registers or upon payment of the prescribed fee, to restore it thereto;
- (e) to appoint examiners and moderators, conduct examinations and grant certificates, and to charge such fees in respect of such examinations or certificates as may be prescribed;
- (f) to approve, on such conditions as it may deem fit, the training of pharmacists;

(g) ...

[S 4(g) rep by s 5(b) of Act 88 of 1997.]

(h) ...

[S 4(h) am by s 5 of Act 6 of 1995; rep by s 5(b) of Act 88 of 1997.]

- (i) subject to the provisions of this Act, to register a person as a pharmacist, to inspect the records and accounts of or investigate the activities at a pharmacy carried on by a person so registered, or to require any person so registered to submit to the council such information as the council may deem necessary;
- (j) in such circumstances as may be prescribed, to suspend or cancel any registration entitling a person to carry on the profession of a pharmacist;
- (k) to consider any matter affecting the pharmacy profession, and to make representations or take such action in connection therewith as the council deems advisable;
- (l) on the application of any person, to recognise any qualifications held by him (whether such qualifications have been obtained in the Republic or elsewhere) as being equal, either wholly or in part, to any prescribed qualifications, whereupon such person shall, to the extent to which the qualifications have so been recognised, be deemed to hold such prescribed qualifications;
- (m) to perform such other functions as may be prescribed;
[S 4(m) am by s 5(c) of Act 88 of 1997.]
- (n) to designate the office-bearers of the council and to determine the procedure for the election of office-bearers;
[S 4(n) ins by s 5(d) of Act 88 of 1997.]
- (o) to appoint any committee it may deem necessary and to delegate any of its powers to any such committee and to prescribe the conditions of such delegation, including the power to subdelegate any delegated power to any member of its staff or officer duly appointed in terms of this Act;
[S 4(o) ins by s 5(d) of Act 88 of 1997.]
- (p) to co-opt a representative of a professional board established in terms of this Act on to the council: Provided that such a representative shall not have the right to vote;
[S 4(p) ins by s 5(d) of Act 88 of 1997.]
- (q) to co-opt any person on to any of its committees that it may deem necessary;
[S 4(q) ins by s 5(d) of Act 88 of 1997.]
- (r) to determine the number of meetings to be held by the council and its committees, the procedure applicable to such meetings, the manner in which special meetings shall be convened and the procedures applicable to such special meetings;
[S 4(r) ins by s 5(d) of Act 88 of 1997.]

- (s) to determine the *quorum* requirements for a meeting of the council and any of its committees;
[S 4(s) ins by s 5(d) of Act 88 of 1997.]
- (t) to determine the manner in which decisions shall be taken at a meeting of the council or any of its committees;
[S 4(t) ins by s 5(d) of Act 88 of 1997.]
- (u) to appoint or dismiss a registrar or such other staff members as it may deem necessary and to determine their conditions of service: Provided that the appointment or dismissal of the registrar shall be subject to the approval of the Minister;
[S 4(u) ins by s 5(d) of Act 88 of 1997.]
- (v) to appoint any officer or inspector to perform any duty or act on behalf of the council in terms of this Act and to prescribe and determine their powers and duties;
[S 4(v) ins by s 5(d) of Act 88 of 1997.]
- (w) to delegate any of its powers to any officer or inspector and in general to regulate the duties of any officer or inspector;
[S 4(w) ins by s 5(d) of Act 88 of 1997.]
- (x) to delegate to any organisation such powers as it may deem necessary from time to time;
[S 4(x) ins by s 5(d) of Act 88 of 1997.]
- (y) to determine the manner in which the business of the council shall be conducted and the manner in which the accounts of the council shall be kept;
[S 4(y) ins by s 5(d) of Act 88 of 1997.]
- (z) to purchase or in any other manner acquire property, which shall include but not be limited to the acceptance of donations, or to sell, let, mortgage or in any other manner dispose of any property of the council;
[S 4(z) ins by s 5(d) of Act 88 of 1997.]
- (zA) to administer the assets of the council or any assets to be held in trust for the benefit of the council;
[S 4(zA) ins by s 5(d) of Act 88 of 1997.]
- (zB) to settle the liabilities of the council;
[S 4(zB) ins by s 5(d) of Act 88 of 1997.]

- (zC) to establish and administer a pension or a provident fund for the employees of the council;
[S 4(zC) ins by s 5(d) of Act 88 of 1997.]
- (zD) to institute, defend and proceed with any legal action in its own name;
[S 4(zD) ins by s 5(d) of Act 88 of 1997.]
- (zE) to borrow money on such terms and conditions as the council may determine and to encumber any of the assets of the council as security therefor;
[S 4(zE) ins by s 5(d) of Act 88 of 1997.]
- (zF) to pay to any members of the council, office-bearers, committee members, officers appointed in terms of this Act, or any other person or any witness subpoenaed, including persons employed by the State, such allowances as it may determine from time to time;
[S 4(zF) ins by s 5(d) of Act 88 of 1997.]
- (zG) to determine the fees payable to the council for services performed by the council in terms of this Act or for any other reason the council may decide on;
[S 4(zG) ins by s 5(d) of Act 88 of 1997.]
- (zH) to require any person or institution registered in terms of this Act, or involved in pharmacy practice or offering pharmaceutical education or training, to furnish the council with the information the council requires;
[S 4(zH) ins by s 5(d) of Act 88 of 1997.]
- (zI) to establish professional boards for pharmacy support personnel registered in terms of this Act, when the council, in consultation with the Minister, deems it necessary; and
[S 4(zI) ins by s 5(d) of Act 88 of 1997.]
- (zJ) to prescribe the scope of practice of the various categories of persons registered in terms of this Act; and
[S 4(zJ) ins by s 5(d) of Act 88 of 1997.]

generally, to do all such things as the council deems necessary or expedient to achieve the objects of this Act.

5. Constitution of council

- (1) The council shall consist of 25 persons elected or appointment as follows—
- (a) nine pharmacists registered with the council, resident in the Republic of South Africa and elected by pharmacists;

- (b) nine pharmacists nominated by the Members of the Executive Council responsible for health matters in the provinces of the Republic and appointed by the Minister;
 - (c) an officer of the Department appointed by the Minister;
 - (d) two pharmacists who are members of the staff of a university at which provision is made for the education and training of pharmacists, nominated by such a university and appointed by the Minister: Provided that such pharmacists shall not be from the same university;
 - (e) four other persons appointed by the Minister, one of whom shall be a person appointed on account of his or her legal knowledge.
- (2) The council shall have a president and vice-president, and all members of the council shall be entitled to vote during the election of the president and the vice-president and other office-bearers of the council.
 - (3) Whenever the persons entitled in terms of subsection (1)(a) to elect any member of the council, fail, before the expiry of the prescribed period, to elect any person to fill any vacancy in respect of the office of such a member, the Minister may, after consultation with the executive committee of the council, appoint a pharmacist who shall thereafter be deemed to have been duly elected.
 - (4) Subject to the provisions of section 7, the members of the council shall hold office for a period of five years, but shall be eligible for reappointment or re-election, as the case may be, for one term only.
 - (5) The procedure to be followed at the election of the nine members referred to in subsection (1)(a) shall be prescribed.
 - (6) If anything required to be done in terms of this Act in connection with the appointment or election or nomination of any member is omitted or not done within the time or in the manner required by this Act, the Minister may order all such steps to be taken as may be necessary to rectify the omission or error, or may validate anything done in any irregular manner, in order to give effect to the objects of this Act.
 - (7) The registrar shall give notice in the *Gazette* of the appointment or election of any member of the council, the date of such appointment or election and the period for which such member has been appointed or elected.
 - (8) Any person who makes or causes to be made a false declaration in connection with the election contemplated in subsection (1)(a), shall be guilty of an offence and liable on conviction to a fine not exceeding the amount determined by the Minister from time to time by notice in the *Gazette*.

(9) The Minister may, in the public interest, and after consultation with a person or body responsible for the appointment or election of a member, terminate the membership of any member of the council after giving written notice to the member and affording the member an opportunity to furnish reasons to the Minister why his or her membership should not be terminated.

(10) The Minister shall notify the registrar in writing of the names of the members appointed in terms of subsection (1) of this Act.

[S 5 am by s 2 of Act 20 of 1979, s 3 of Act 69 of 1985; subs by s 6 of Act 6 of 1995; am by s 2 of Act 45 of 1997; subs by s 6 of Act 88 of 1997.]

6. ...

[S 6 am by s 4 of Act 69 of 1985; rep by s 7 of Act 6 of 1995.]

7. **Vacation of office and the filling of vacancies**

(1) A member of the council shall vacate his office if—

(a) his estate is sequestered;

(b) he is or becomes disqualified under this Act from practising his profession;

(c) he becomes a patient as defined in section 1 of the Mental Health Act, 1973 (Act 18 of 1973);

(d) he is convicted of an offence in respect whereof he is sentenced to imprisonment without the option of a fine;

(e) he ceases to be a South African citizen;

(f) he has been absent from more than two consecutive ordinary meetings of the council without the council's leave;

(g) he or she ceases to hold any qualification necessary for his or her appointment or tenders his or her resignation in writing to the Minister and the Minister accepts his or her resignation; or

[S 7(1)(g) subs by s 5 of Act 69 of 1985, s 8(a) of Act 6 of 1995.]

(h) the Minister, in the public interest, terminates his membership.

[S 7(1)(h) am by s. 46 of Act 97 of 1986.]

- (2) Every vacancy on the council arising from a circumstance referred to in subsection (1) and every vacancy caused by the death of a member shall be filled by appointment by the Minister of a person nominated by the council, and every member so appointed shall hold office for the unexpired portion of the period for which the vacating member was appointed.

[S 7(2) subs by s 8(b) of Act 6 of 1995.]

8. ...

[S 8 rep by s 7 of Act 88 of 1997.]

9. ...

[S 9 am by s 3 of Act 20 of 1979, s 9 of Act 6 of 1995; rep by s 8 of Act 88 of 1997.]

10. ...

[S 10 am by s 4 of Act 20 of 1979; rep by s 9 of Act 88 of 1997.]

11. ...

[S 11 rep by s 10 of Act 88 of 1997.]

12. Fees of council

- (1) All fees payable in terms of this Act shall be paid to the council and shall be utilised as its funds for defraying expenses incurred in connection with the performance of its functions.

[S 12(1) subs by s 11(a) of Act 88 of 1997.]

(2) ...

[S 12(2) rep by s 11(b) of Act 88 of 1997.]

CHAPTER II

REGISTRATION OF PHARMACISTS AND BODIES CORPORATE CARRYING ON BUSINESS AS A PHARMACIST AND MAINTENANCE OF REGISTERS

13. Registration

- (1) No person shall be entitled to provide the services which form part of the services specially pertaining to the scope of practice of a pharmacist or assist therewith, unless he or she is duly registered in one of the categories prescribed in terms of this Act.

- (2) No person shall practise as a specialist pharmacist or shall conduct himself or herself as such a specialist, or shall in any other manner profess to be a person in respect of whom any such speciality has been registered, unless the speciality in question has been registered in terms of this Act in respect of such person.

- (3) Every person who has been suspended from practising in terms of this Act or whose name has been removed from a register, shall be disqualified from providing any of the services or performing any act specially pertaining to the scope of practice of pharmacy as determined in the practice rules made by the council, and his or her registration certificate shall be deemed to be withdrawn until the period of suspension has expired or until his or her name has been restored to the register by the council.
- (4) Any person who has been suspended from practising in terms of this Act or whose name has been removed from a register in terms of subsection 45(1)(c) and whose name has not been restored to such register shall not be entitled to remain, or be registered as the owner of a pharmacy, or hold any beneficial interest in a pharmacy.

[S 13 subs by s 12 of Act 88 of 1997.]

14. Registration of persons, recording of licensed premises and maintenance of registers

With regard to the registration of persons and the recording of licensed pharmacy premises in terms of this Act—

- (a) the various categories of persons who may be registered and pharmacies which may be recorded in terms of this Act shall be prescribed;
- (b) the requirements and conditions for registration, removal, restoration or reinstatement of the various categories of persons shall be prescribed;
- (c) the council shall require any person who is entitled and intends to provide one or more or all of the services which are deemed to be services specially pertaining to the scope of practice of a pharmacist, and pharmacy support personnel, or any person who assists in the provision thereof, to register with the council;
- (d) the council shall keep, amend, correct and maintain such registers in the format as the council deems necessary and cause copies of such registers to be printed at the discretion of the council;
- (e) the council may remove, in the prescribed manner, the name of any person from the relevant register;
- (f) the council may restore, in the prescribed manner, the name of any person to the relevant register on such conditions as the council may deem fit;
- (g) the council may issue, in the prescribed manner, any certificate the council may deem necessary, on such conditions as it may deem fit, and may cancel any certificate in the prescribed manner;
- (h) the council may refuse, in the prescribed manner, to record any person who or a pharmacy which does not comply with the prescribed conditions; and

- (i) the council may require, in the prescribed manner, all persons authorised in terms of section 22A to record the prescribed information with the council.

[S 14 am by s 5 of Act 20 of 1979, s 6 of Act 69 of 1985; subs by s 13 of Act 88 of 1997.]

14A. Community service

- (1) Notwithstanding sections 13 and 14, any person registering for the first time as a pharmacist in terms of this Act, shall—

- (a) perform remunerated pharmaceutical community service for a period of one year in terms of the regulations contemplated in subsection (2); and

- (b) be entitled to registration to practise as a pharmacist on the completion of such service.

- (2) The Minister may, after consultation with the council, make regulations regarding the performance of the pharmaceutical community service, including, but not limited to—

- (i) the place at which it is to be performed;

- (ii) the conditions of employment.

[S 14A ins by s 1 of Act 1 of 2000.]

15. ...

[S 15 rep by s 14 of Act 88 of 1997.]

16. ...

[S 16 rep by s 15 of Act 88 of 1997.]

17. ...

[S 17 am by s 2 of Act 20 of 1983; rep by s 16 of Act 88 of 1997.]

18. ...

[S 18 rep by s 17 of Act 88 of 1997.]

19. ...

[S 19 subs by s 6 of Act 20 of 1979; rep by s 18 of Act 88 of 1997.]

20. ...

[S 20 am by s 7 of Act 20 of 1979, s 3 of Act 20 of 1983; rep by s 19 of Act 88 of 1997.]

21. ...

[S 21 subs by s 8 of Act 20 of 1979; am by s 1 of Act 39 of 1982, s 7 of Act 69 of 1985; rep by s 20 of Act 88 of 1997.]

22. Body corporate carrying on business as pharmacist

- (1) A person authorised in terms of section 22A to own a pharmacy shall in the prescribed manner, specifying the prescribed particulars, apply to the Director-General for a licence for the premises wherein or from which such business shall be carried on and the Director-General may be entitled to issue or refuse such licence on such conditions as he or she may deem fit.
- (2) A person issued with a licence in terms of subsection (1) shall notify the council thereof in writing and on production of the said licence the council shall record the name, address, date of licence, licence number and any other particulars as prescribed.
- (3) A licence issued in terms of subsection (1) may be subject to conditions as determined by the Director-General.
- (4) A pharmacy shall, subject to such conditions as may be prescribed, be conducted under the continuous personal supervision of a pharmacist, in accordance with good pharmacy practice as determined in the rules made by the council.
- (5) The pharmacist referred to in subsection (4) shall be responsible to the council for any act performed by or on behalf of the body corporate in question, including any omission to perform an act required to be performed by or on behalf of the body corporate, which may involve disciplinary action by the council, unless he or she satisfies the council that the responsibility for such act rests upon a pharmacist other than himself or herself employed by the body corporate.
- (6) The council shall have the right to inspect premises in which the business of a pharmacy is carried on in terms of this Act, and the registrar shall provide the Director-General and the person who made the application in terms of subsection (1) with a written report of the findings of its inspection if it has been found that the inspected premises are not suitable for the business of a pharmacy.
- (7) The Director-General may cancel or suspend any licence contemplated in subsection (1) which does not comply with the licensing conditions as determined in terms of subsection (3), after giving notice in writing to the owner of the pharmacy or the responsible pharmacist, and affording the owner or the responsible pharmacist an opportunity to furnish reasons why the licence should not be cancelled or suspended.

- (8) If a licence is suspended or cancelled, the premises shall from the date of the suspension or the cancellation be considered to be unsuitable for the carrying on of the business of a pharmacy.
- (9) A person registered to carry on the business of a pharmacy at the commencement of this Act shall be deemed to be licensed in terms of subsection (1).
- (10) The Director-General in consultation with the council may close a pharmacy which is being conducted in contravention of this Act and the Medicines and Related Substances Act, 1965, or which does not comply with the licensing conditions, after giving notice to the owner or the responsible pharmacist, and affording the owner or the responsible pharmacist an opportunity to furnish reasons to the Director-General why the pharmacy should not be closed.
- (11) Any person aggrieved by a decision of the Director-General or the council, as the case may be, may within the prescribed period, in the prescribed manner appeal against such decision to an appeal committee appointed by the Minister: Provided that the chairperson of such appeal committee shall be a person appointed on account of his or her knowledge of the law.

[S 22 am by s 9 of Act 36 of 1977, s 9 of Act 20 of 1979, s 2 of Act 39 of 1982, s 8 of Act 69 of 1985; subs by s 21 of Act 88 of 1997.]

22A. Ownership of pharmacies

The Minister may prescribe who may own a pharmacy, the conditions under which such person may own such pharmacy, and the conditions upon which such authority may be withdrawn.

[S 22A ins by s 10 of Act 36 of 1977; am by s 9 of Act 69 of 1985; subs by s 22 of Act 88 of 1997.]

22B. ...

[S 22B ins by s 10 of Act 69 of 1985; rep by n 23 of Act 88 of 1997.]

23. Removal of name from, and restoration to register

- (1) The council may direct the registrar to remove from the register the name of any person—
 - (a) who has been absent from the Republic during the three years preceding such removal;
 - (b) who has failed to notify the registrar, within a period of three months as from the date of an enquiry sent by the registrar by registered letter to the address appearing in the register in respect of such person, of his present address;

- (c) who has requested that his name be removed from the register, in which case such person may be required to lodge with the registrar an affidavit to the effect that no disciplinary or criminal proceedings are being or are likely to be taken against him;
 - (d) who has failed to pay to the council, within three months as from the date on which it became due for payment, any prescribed annual fee;
 - (e) who has failed to furnish the registrar, within a period to be determined by the council, with such information as the registrar may require in terms of regulations made under this Act; or
 - (f) whose name has been removed from the register, record or roll of any university, college, society or other body from which that person received the qualification by virtue of the holding whereof he was registered.
- (2) Notice of the removal, in terms of subsection (1), of his name from the register, or of the removal, in terms of section 14(4), of an entry from the register, shall be given by the registrar to the person concerned by way of a registered letter addressed to such person at the address appearing in respect of him in the register and such person shall, as from the date on which notice has so been given, cease to practise as a pharmacist or to perform any act which he, in his capacity as a registered person, was entitled to perform, and any registration certificate issued to him shall be deemed to be cancelled, until such time as his name or the entry removed from the register in terms of section 14(4), as the case may be, is restored to the register.
- (3) The name of a person whose name has in terms of this section been removed from the register, or an entry removed from the register in terms of section 14(4), shall be restored to the register by the registrar upon the person concerned—
- (a) applying on the prescribed form for such restoration;
 - (b) paying the fee prescribed in respect of such restoration (if any); and
 - (c) complying with such other requirements as the council may determine.

24. Appeal against refusal to register or against removal of name from register

- (1) Any person aggrieved by the council's decision—
- (a) to refuse to register him or to enter in the appropriate register any degree, diploma, certificate or additional qualification which he desires, and maintains to be entitled, to have so entered in terms of the provisions of this Act; or

- (b) to remove from the register his name or any degree, diploma, certificate or additional qualification which he maintains to be entitled to have entered in the register in terms of the provisions of this Act,

may, after notice to the council and within a period of two months after the date of such decision, appeal against such decision to the provincial or local division of the Supreme Court of South Africa having jurisdiction in the area in which the appellant normally resides.

- (2) The court may dismiss such appeal or, if it is of the opinion that the council has not acted in accordance with the provisions of this Act, may make an order reversing or modifying the council's decision or it may remit the matter to the council for further consideration or make such other order, including an order as to costs, as it may deem appropriate.

25. Publication of registers

The registrar shall, at intervals to be determined by the council and according to the instructions and under the authority of the council, cause copies of the registers, or of supplementary lists showing all alterations, additions, revisions and deletions made since the last publication of the complete registers, to be printed and published.

26. Register as proof

A copy of the last published issue of a register or any supplementary list purporting to be printed and published under the authority of the council shall be *prima facie* proof, in all legal proceedings, of the facts therein recorded, and the absence of the name of any person from such copy shall be proof, until the contrary is proved, that such person is not registered according to the provisions of this Act: Provided that in the case of any person whose name—

- (a) does not appear in such copy, or whose name has been added to the register after the date of the last published issue thereof, a certified copy under the hand of the registrar of the entry of the name of such person in the register, shall be proof that such person is registered under the provisions of this Act;
- (b) has been removed from the register since the date of the last published issue thereof and has not been restored thereto, a certificate under the hand of the registrar that the name of such person has been removed from the register shall be proof that such person is not registered according to the provisions of this Act.

27. Issue of duplicate registration certificate, extract from register or certificate by registrar

(1) If the registrar is satisfied—

- (a) on proof submitted by the registered person concerned, that a registration certificate has been destroyed; or
- (b) by virtue of an affidavit submitted by the registered person concerned, that a registration certificate has been lost,

he may issue a duplicate registration certificate to that person upon payment of the prescribed fee.

(2) The registrar may issue a certified extract from the register or a certificate under his hand as provided in section 26 to any person upon payment of the prescribed fee.

28. Registration of additional qualifications and of specialities

(1)

- (a) The council may from time to time by notice in the *Gazette* make rules providing for the recognition by the council of the degrees, diplomas or certificates which may be registered as additional qualifications, and only qualifications so recognised shall be registerable under this section.
- (b) The Minister may from time to time, on the recommendation of the council, prescribe the specialities which may be registered as specialities, and only specialities so prescribed shall be registrable under this section.

[S 28(1) subs by s 11(a) of Act 69 of 1985.]

(2) Any person who desires to have a degree, diploma or certificate, other than the degree, diploma or certificate by virtue of which he has in the first instance been registered, or who desires to have a prescribed speciality contemplated in subsection (1), registered, shall apply to the registrar, submitting such documentary proof that he holds the additional qualification in question as the council may require, or, in the case of an application for registration of speciality, submitting proof that he complies with the prescribed requirements, and if the registrar is satisfied that such additional qualification is a degree, diploma or certificate recognised in terms of subsection (1), or, in respect of a speciality, that such speciality has been prescribed and that the prescribed requirements have been complied with, he shall, upon payment of the prescribed fee, cause such degree, diploma or certificate, or speciality, as the case may be, to be entered in the register.

[S 28(2) subs by s 11(b) of Act 69 of 1985.]

- (3) Any person whose application for registration of a speciality has been refused by the registrar on the ground of non-compliance with any prescribed requirement, may apply to the registrar to be permitted by the council to sit for an examination referred to in subsection (4) in respect of the speciality for which he desires registration, before examiners appointed by the council and on a date and at a place determined by the council.
- (4) The Minister may from time to time on the recommendation of the council make regulations relating to examinations which shall be required for the purposes of subsection (3) in respect of the prescribed specialities contemplated in subsection (1), and relating to fees which shall be paid by candidates for such examinations.
- (5) If any person referred to in subsection (3) has passed, in accordance with the relevant regulations, any examination referred to in subsection (4) in respect of the speciality for which he desires registration, the registrar shall on payment of the prescribed fee cause the speciality concerned to be entered in the register in respect of the person concerned.
- (6)
- (a) The registrar shall, on the instructions of the council, remove from the register any degree, diploma or certificate registered as an additional qualification in terms of this section, if in respect of such qualification the name of the holder thereof has been removed from the roll, register or record of the university, college, society or other body from which that person received such qualification.
- (b) The registrar shall, on the instructions of the council, remove from the register any speciality registered in terms of this section, if in the opinion of the council, in the case of a person referred to in subsection (2), such person has ceased to comply with any prescribed requirement for the registration of the speciality in question, or if, in the case of any person in respect of whom a speciality is registered, such person has lodged with the registrar a written application for the removal of the speciality in question from the register.
- (c) A degree, diploma or certificate removed in terms of paragraph (a), or a speciality removed in terms of paragraph (b), shall on the instruction of the council be restored by the registrar to the register upon the person concerned—
- (i) applying on the prescribed form for such restoration;
- (ii) paying the fee prescribed in respect of such restoration (if any); and
- (iii) complying in the opinion of the council with such other requirements (if any) as the council may determine.

- (7) No registered person shall take, use or publish in any way whatsoever any name, title, description or symbol indicating or calculated to lead persons to infer that he possesses any professional qualification which is not shown in the register against his name.
- (8) No registered person shall practise as a pharmacist who professes to be a specialist in respect of prescribed speciality contemplated in subsection (1), or shall hold himself out as such a specialist, or shall in any other manner profess to be a person in respect of whom any such speciality has been registered, unless the speciality in question has been registered in terms of this section in respect of such person.

[S 28 subs by s 4 of Act 20 of 1983.]

29. Penalties for professing to be or practising as pharmacist while unregistered

- (1) Subject to the provisions of subsection (3), any person who, not being registered as a pharmacist—
 - (a) for gain practises as a pharmacist, or carries on business as a pharmacist or for gain performs any act specially pertaining to the profession of a pharmacist; or
 - (b) pretends, or by means whatsoever holds himself out, to be a pharmacist (whether or not he purports to be registered), or uses the name of pharmacist or any name, title, description or symbol indicating or calculated to lead persons to infer that he possesses a degree or diploma or other pharmaceutical qualification or that he is registered under this Act, or in describing his business activities or premises uses the term 'pharmacy' or 'chemist's shop' or 'drug store' or any other term of like meaning,

shall be guilty of an offence and on conviction liable to a fine not exceeding the amount determined by the Minister in consultation with the Minister of Justice from time to time by notice in the *Gazette*.

[Words following s 29(1)(b) subs by s 24(a) of Act 88 of 1997.]

- (2) The acts prescribed in terms of section 35A(a)(i) shall for purposes of subsection (1) be deemed to be acts specially pertaining to the profession of a pharmacist.

[S 29(2) am by s 10 of Act 20 of 1979; subs by s 24(b) of Act 88 of 1997.]

- (3) The provisions of subsections (1) and (2) shall not prohibit—
 - (a) the keeping of medicines or the supply of medicines to his or her own patients or clients by any medical practitioner, dentist, practitioner, veterinarian or nurse in accordance with the provisions of the Medicines and Related Substances Control Act, 1965;

[S 29(3)(a) subs by s 24(c) of Act 88 of 1997, s 18 of Act 10 of 2002.]

- (b) the employment under the supervision of a pharmacist—
- (i) of a pharmacist intern in the pharmacy in which he is undergoing his practical training;
 - (ii) of a pharmacist's assistant, pharmaceutical technician or other pharmaceutical support personnel;
[S 29(3)(b)(ii) subs by s 10(d) of Act 20 of 1979; s 24(d) of Act 88 of 1997.]
- (c) the manufacture or packing of any medicine or medicinal or chemical substance by a person referred to in subsection (4), by virtue of a permit granted in terms of that subsection;
[S 29(3)(c) subs by s 10(e) of Act 20 of 1979.]
- (d) the handling of medicines or the supply of medicines to members of the armed forces, under the supervision of a medical practitioner or pharmacist, by members of the medical service of the armed forces provided such members of the said medical service have undergone training therein;
- (e) the keeping of medicines and its supply to patients in hospitals or other institutions for the treatment of sick persons, under the direction of a medical practitioner and in accordance with the provisions of the Medicines and Related Substances Control Act, 1965, by any person registered or enrolled under the Nursing Act, 1957 (Act 69 of 1957);
- (f) the keeping of medicines and its supply by any person or organisation performing a health service and authorised in writing by the Director-General acting after consultation with the council, to acquire medicines for the performance of such service.
[S 29(3)(f) subs by s 24(e) of Act 88 of 1997.]
- (4) The Minister may in consultation with the council grant any person not registered in terms of this Act authority to perform a service specially pertaining to the scope of practice of a pharmacist, or in writing exempt any person from the provision of this Act, on such conditions as he or she may determine.
[S 29(4) subs by s 10(f) of Act 20 of 1979, s 24(f) of Act 88 of 1997.]
- (5) If he or she is of the opinion that it is in the public interest to do so, the Director-General may, pending the Ministers' decision in respect of an application for a authorisation referred to in subsection (4), grant a provisional authorisation to the applicant concerned, authorising him or her to manufacture, pack or sell any medicine or medicinal or chemical substance specified in such provisional authorisation, subject to such conditions to be determined by the said Director-General and set out in the provisional authorisation.
[S 29(5) ins by s 10(g) of Act 20 of 1979; subs by s 24(g) of Act 88 of 1997.]

30. Penalty for false representation inducing registration, for false entry in register and for impersonation

Any person who—

- (a) procures or attempts to procure for himself or any other person registration under this Act or any certificate, licence, permit, order or prescription referred to in this Act by means of a false representation, whether verbally or in writing, or aids or abets any person in so doing; or
- (b) makes or causes to be made any unauthorised entry or alteration in or removal from a register or a certified copy thereof or extract therefrom or on any certificate issued under this Act; or
- (c) wilfully destroys or damages or renders illegible or causes to be destroyed, damaged or rendered illegible any entry in a register or, without the permission of the holder thereof, any certificate issued under this Act; or
- (d) forges or, knowing it to be forged, utters any document purporting to be a certificate issued under this Act; or
- (e) impersonates any person registered under this Act,

shall be guilty of an offence and on conviction liable to a fine not exceeding the amount determined by the Minister from time to time by notice in the *Gazette*.

[Words following s 30(e) subs by s 25 of Act 88 of 1997.]

31. ...

[S 31 rep by s 26 of Act 88 of 1997.]

32. Limitations in respect of unregistered persons and proof required for the issue of licences

- (1) No remuneration shall be recoverable in respect of any act specially pertaining to the profession of a pharmacist, when performed by a person who is not authorised under this Act to perform such act for gain.
- (2) Subject to the provisions of section 29(3), no person other than a registered person holding the necessary qualifications shall be eligible for or entitled to hold any appointment to any establishment, institution, body, organisation or association, whether public or private, if such appointment involves the performance of any act which an unregistered person may not perform for gain.

- (3) No licence required to be obtained by a pharmacist shall be issued by the authority empowered by law to issue such licence unless the person applying for such licence submits a registration certificate or certified extract from the register, referred to in section 27(2), as proof that he is registered as a pharmacist.

CHAPTER III CONTROL OF PHARMACEUTICAL EDUCATION

33. Pharmacy education and training

- (1) The Minister may in consultation with the council make regulations to—
- (a) develop, establish, maintain and control standards of pharmacy education and training;
 - (b) require any institution or person intending to provide education and training to apply for the approval of such institution or person;
 - (c) evaluate and authorise any institution or person to offer education and training to qualify a person for registration in terms of this Act, lay down the conditions upon which such education and training may be provided and amend such conditions from time to time, or cancel or withdraw such authority;
 - (d) make rules regarding the evaluation of a person applying for registration in terms of this Act to ensure competence;
 - (e) prescribe the unit standards for pharmaceutical education and training required from a person entitled to be registered in terms of this Act;
 - (f) conduct a pre-registration examination or evaluation to ensure competence of a person applying for registration in terms of this Act;
 - (g) conduct, recognise and control supplementary training of a person registered in terms of this Act;
 - (h) recognise qualifications, competencies and skills for purposes of registration in terms of this Act;
 - (i) determine the number of pharmacy support personnel or pharmacist interns who may be trained under the supervision of a pharmacist;

- (j) investigate or cause to be investigated any institution or premises recognised by the council for purposes of education and training in terms of this Act, or request such information as may be deemed necessary from such institution to enable the council to establish compliance with the requirements prescribed by the council relating to such education and training;
- (k) conduct examinations or evaluations for purposes of registration or continued registration in terms of this Act;
- (l) appoint or accredit examiners or moderators needed for purposes of conducting any examination or evaluation prescribed by the council;
- (m) award, cancel or withdraw certificates or documents issued in respect of any examination or training provided or recognised by the council;
- (n) upon notice to the institution and pharmacy students who may be affected thereby, and after furnishing reasons, withdraw further recognition of any qualification for purposes of registration in terms of this Act on such conditions as the council may deem fit;
- (o) require any person registered in terms of this Act to remain competent in the manner prescribed;
- (p) make rules as to the additional qualifications, specialities or titles that may be registered in terms of this Act.

[S 33 am by s 3 of Act 39 of 1982, ss 46 and 47 of Act 97 of 1986; subs by s 27 of Act 88 of 1997.]

34. Pharmacy education and training institutions

- (1) No person shall be entitled to offer education and training for purposes of registration in terms of this Act, unless such institution or person and the education and training concerned have been approved by the council.
- (2) Any person intending to offer education and training referred to in subsection (1) shall, before offering such education and training, apply to the council in the prescribed manner for the approval of such education and training, and of such institution or person.
- (3) Any person who prevents a person authorised in terms of this Act to perform a function for or to act on behalf of the council from entering, at a reasonable time, an institution or premises offering education and training or who hinders such person in making therein or therefrom any investigation required to be done by the council, shall be guilty of an offence: Provided that the person carrying out the investigation shall produce proof of his or her identity and such authority, on request.

[S 34 subs by s 28 of Act 88 of 1997.]

CHAPTER IV
CONDUCT OF PHARMACEUTICAL PRACTICE

35. Authorisation for provision and levies for services

- (1) Except with the prior approval of the council, or authorised in terms of this Act, no person shall provide a service which pertains specially to the scope of practice of the various categories of persons, as laid down in terms of this Act.
- (2) No person registered in terms of this Act, shall pay any person directly or indirectly or in any other manner reward him or her or it in connection with a prescription, issued by an authorised prescriber, in terms of the Medicines and Related Substances Act, 1965.

[S 35 am by s 11 of Act 20 of 1979, s 12 of Act 69 of 1985; subs by s 29 of Act 88 of 1997.]

35A. Pharmacy practice

With regard to the control of pharmacy practice—

- (a) the following shall be prescribed—
 - (i) the scope of practice of persons registered in terms of this Act, or the services or acts which shall for purposes of this Act be deemed to be services or acts specially pertaining to pharmacists or pharmacy support personnel, and the conditions under which those services may be provided or the acts which may be performed;
 - (ii) the services which may be provided in the various categories of pharmacies, and the conditions under which these services shall be provided;
- (b) the council shall be entitled to make rules as to—
 - (i) a code of conduct for pharmacists and other persons registered in terms of this Act;
 - (ii) what constitutes good pharmacy practice;
 - (iii) the services for which a pharmacist may levy a fee and guidelines for levying such a fee or fees;
- (c) the council may approve the title or name under which a pharmacy may be conducted;
- (d) the council shall be entitled to investigate and inspect the practice and the conduct of the business of a pharmacy.

[S 35A ins by s 30 of Act 88 of 1997.]

36. Restriction in respect of business names

- (1) Subject to the provisions of subsections (2) and (3), no person shall carry on business as a pharmacist, either alone or in partnership with another person, under any name, title or description which is or includes in any form the surname of a natural person, living or dead, if the use of such name, title or description is calculated or likely to lead persons to infer that a person of that surname is or has been associated with the pharmacy business in question.
- (2) The provisions of subsection (1) shall not prohibit—
- (a) the inclusion in the name, title or description of any pharmacy business of the surname of an owner thereof;
- [S 36(2)(a) subs by s 13 of Act 69 of 1985, s 31(a) of Act 88 of 1997.]
- (b) the use in respect of any pharmacy business of any name, title or description under which that business has lawfully been carried on immediately prior to the commencement of this Act.
- (3) The provisions of subsection (1) shall not apply in respect of any pharmacist whose business activities consists solely of the manufacture of medicines and the sale thereof to pharmacists or dealers and who does not carry on business as a retail pharmacist.
- (4) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding the amount determined by the Minister from time to time by notice in the *Gazette*.

[S 36(4) subs by s 31(b) of Act 88 of 1997.]

37. Continuation of pharmacy business of person registered in terms of this Act by executor, trustee, liquidator, curator, or judgment creditor

Notwithstanding anything to the contrary in this Act contained—

- (a) the person responsible for reporting the estate of a person who owns a pharmacy and registered in terms of this Act to the Master, or the executor of the deceased estate of such person who owns a pharmacy may, subject to the laws relating to the administration of estates, for a period not exceeding 12 months after the death of such person who owns a pharmacy, and for an additional period not exceeding 12 months, continue the pharmacy business of the deceased, and such pharmacy business shall be conducted under the continuous personal supervision of a pharmacist;

- (b) the executor shall, within 30 days of his or her appointment, inform the council by registered mail of his or her appointment and of the name and registration number of the pharmacist who shall be responsible to the council in respect of the pharmacy business referred to in paragraph (a);
- (c) the trustee in the insolvent estate of a pharmacist registered in terms of this Act or the liquidator of a body corporate entitled to carry on business as a pharmacist may, subject to applicable laws, for a period not exceeding 12 months after such a final sequestration order or final liquidation order, and for such additional period as the council may allow, continue the business of such a pharmacist or body corporate, and such business shall be conducted under the continuous personal supervision of a pharmacist;
- (d) the trustee or liquidator shall, within 30 days of his or her appointment, deliver, by hand or registered mail, to the council the sequestration or liquidation order, as the case may be, referred to in paragraph (c), and the trustee or the liquidator shall inform the council, in writing, of the name and registration number of the pharmacist who shall be responsible to the council in respect of the business referred to in paragraph (c);
- (e) the curator of the estate of a person who is carrying on business as a pharmacist but who has been declared incapable of managing his or her affairs by an order of court, may, subject to applicable laws, for a period not exceeding 12 months after the order has been given and for such additional period as the council may allow, continue such pharmacy business, and such pharmacy business shall be conducted under the continuous personal supervision of a pharmacist;
- (f) the curator referred to in paragraph (e) shall, within 30 days from the date on which the order was made, deliver, by hand or registered mail, such order to the council, and the curator shall inform the council, in writing, of the name and registration number of the pharmacist who shall be responsible to the council in respect of the business referred to in paragraph (e);
- (g) the judicial manager or a judgment creditor of a body corporate carrying on business as a pharmacist may, subject to applicable laws, for a period not exceeding the period of judicial management or six months from the date on which the attachment order was made in the case of a judgment creditor, subject to conditions determined by the council, continue such pharmacy business, and such pharmacy business shall be conducted under the continuous personal supervision of a pharmacist;
- (h) the judicial manager or judgment creditor referred to in paragraph (g) shall, within 30 days of the granting or discharge of the order, deliver, by hand or registered mail, such order to the council, and such judicial manager or judgment creditor shall inform the council, in writing, of the name and registration number of the pharmacist who shall be responsible to the council in respect of the pharmacy business referred to in paragraph (e).

[S 37 am by s 12 of Act 20 of 1979, s 4 of Act 39 of 1982; subs by s 32 of Act 88 of 1997.]

38. Restriction in, or suspension from, practice of registered person

- (1) Whenever it appears to the council that any person registered under this Act—
- (a) has become mentally or physically disabled to such an extent that it would be detrimental to the public interest to allow him to continue to practise;
 - (b) has become unfit to purchase, acquire, keep, use, order, supply or possess any scheduled substance;
 - (c) has been using a scheduled substance regularly for other than medicinal purposes as defined in section Medicines and Related Substances Control Act, 1965; or
 - (d) has become addicted to the use of any scheduled substance,

the council shall cause the matter to be investigated and the council may, if it deems it necessary, hold an inquiry *mutatis mutandis* in accordance with the provisions of section 40 and the regulations made under section 49(1)(o), in respect of such person.

- (2) If the council, after holding an inquiry in terms of subsection (1), finds that any of the circumstances contemplated in paragraph (a), (b), (c) or (d) of that subsection exists in respect of the person concerned, it may, by order—
- (a) in the case of a person in respect of whom the circumstances contemplated in paragraph (a) of subsection (1) exist—
 - (i) suspend such person for a specified period from practising his profession or performing any act specially pertaining to his profession; or
 - (ii) impose such conditions as it may deem fit subject to which such person shall be entitled to continue practising his profession; or
 - (b) in the case of a person in respect of whom any of the circumstances contemplated in paragraph (b), (c) or (d) of subsection (1) exists—
 - (i) impose upon such person any of the penalties referred to in section 45(1);
 - (ii) prohibit such person for a specified period from purchasing, acquiring, keeping, using, dispensing, ordering, supplying or possessing any scheduled substance; or

- (iii) impose for a specified period such conditions as it may deem fit subject to which such person shall be entitled to purchase, acquire, keep, use, dispense, order, supply or possess any scheduled substance.
- (3) The council may extend for any period determined by it the period of operation of, withdraw, or in any other manner amend, any order made by it under subsection (2).
- (4) The provisions of section 47 shall apply in respect of any person who has been suspended by virtue of any provision of subsection (2).
- (5) Any person registered under this Act who contravenes or fails to comply with any order made under subsection (2) shall be guilty of an offence.

38A. Powers of officers and other persons

- (1) Any officer appointed in terms of this Act who is required or authorised to perform any duty on behalf of the council and any person appointed by virtue of the provisions of section 49(1)(l)(v) to make any inspection, may enter any pharmacy at any time reasonable for the proper performance of such duty or the making of such inspection.
- (2) Any person who fails to give or refuses access to any officer or person referred to in subsection (1), if he requests entrance to any pharmacy, or obstructs or hinders him in the execution of his duties under this Act, or who fails or refuses to give information that he may lawfully be required to give to such officer or person, or who gives to such officer or person false or misleading information knowing it to be false or misleading, shall be guilty of an offence.
- (3) Every officer or person referred to in subsection (1) shall be issued with a document signed by the registrar and containing the name of the officer or person concerned as well as a statement to the effect that such officer or person is empowered to perform any duty or make any inspection in terms of this section.
- (4) Whenever any officer or person performs any duty or makes any inspection as contemplated in this section, he shall exhibit to any person affected thereby the document issued to him in terms of subsection (3).

[S 38A ins by s 13 of Act 20 of 1979.]

CHAPTER V
DISCIPLINARY POWERS OF THE COUNCIL

39. Inquiry by the council into charges of misconduct

- (1) The council shall have the power to enquire into any matter which is brought to the attention of the council or any complaint, charge or allegation of improper or disgraceful conduct against any person registered in terms of this Act and, on finding such person guilty of such conduct, to impose any of the penalties prescribed in section 45(1).

[S 39(1) subs by s 33 of Act 88 of 1997.]

- (2) If the council is in doubt as to whether any inquiry should be held, it may, in connection with the complaint, charge or allegation in question, consult with or seek information from any person, including the person against whom the complaint, charge or allegation has been lodged.
- (3) In the case of a complaint, charge or allegation which forms or is likely to form the subject of a criminal case in a court of law the council may postpone the holding of an inquiry until such case has been concluded.
- (4) The council may appoint a person with adequate experience in the administration of justice to be present as an assessor at any inquiry held by the council under this Chapter and to advise it on matters of law, procedure or evidence.

40. Procedure for the conduct of an inquiry

- (1)
- (a) For the purpose of any inquiry held in terms of section 39, the council may take evidence and may, under the hand of the president or the registrar, summon witnesses and require the production of any book, record, document or thing and may, through the president, administer an oath to any witness or accept an affirmation from him, and may examine any book, record, document or thing which any witness had been required to produce.
- (b) A summons to appear before the council as a witness or to produce to it any book, record, document or thing shall be, as nearly as practicable, in the prescribed form, shall be signed by the president or the registrar and shall be served either by registered letter sent through the post or in the same manner as it would be served if it were a subpoena issued by a magistrate's court.
- (c) Every person summoned in terms of this subsection shall be bound to obey the summons and any person who, having been duly summoned—
- (i) refuses, or without sufficient cause fails, to attend and give evidence relevant to the inquiry at the time and place specified in the summons;

- (ii) refuses to take the oath or to make an affirmation when required by the president to do so;
- (iii) refuses to produce any book, record, document or thing which he has in terms of the summons been required to produce; or
- (iv) attends before the council and refuses to answer, or to answer fully and satisfactorily to the best of his knowledge and belief, any question lawfully put to him,

shall be guilty of an offence and liable on conviction to a fine not exceeding the amount to be determined by the Minister from time to time by notice in the *Gazette*: Provided that every person so summoned shall be entitled to all the privileges to which a witness subpoenaed to give evidence before a provincial division of the Supreme Court is entitled.

[Words following upon s 40(1)(c)(iv) subs by s 34(a) of Act 88 of 1997.]

- (2) Every person whose conduct is the subject of an inquiry under section 39, shall be afforded an opportunity, by himself or through his legal representative, of answering the charge and of being heard in his defence.
- (3) The council shall be entitled to make an order as regards the costs incurred in an inquiry or investigation relating to the conduct of a registered person, of an amount not exceeding the amount determined by the Minister from time to time by notice in the *Gazette*.

[S 40(3) ins by s 34(b) of Act 88 of 1997.]

41. Council to make rules relating to offences under this Chapter

- (1) The council shall from time to time make rules specifying the acts or omissions in respect of which the council may take disciplinary steps under this Chapter: Provided that the powers of the council to inquire into and deal with any complaint, charge or allegation under this Chapter shall not be limited to the acts or omissions so specified.
- (2) No rule made in terms of subsection (1) or any amendment or withdrawal thereof shall be of force and effect until approved by the Minister and published in the *Gazette*.

42. Charges by pharmacists

- (1) No pharmacist shall make or attempt to make or to recover, or enter into any agreement or associate himself in any way with any other person for the purpose of making or fixing, excessive charges for any article supplied or to be supplied by him in his capacity as a pharmacist.

- (2) Any pharmacist who contravenes any provision of subsection (1) shall be guilty of improper conduct as contemplated in section 39 and the council shall take cognisance of and deal with such conduct in terms of the provisions of this Chapter.

43. Commission on prescriptions

- (1) No pharmacist shall pay to any person any commission or in any other manner reward him in connection with a prescription issued by a medical practitioner or veterinarian.

[S 43(1) subs by s 14 of Act 20 of 1979.]

- (2) Any pharmacist who contravenes the provisions of subsection (1) shall be guilty of an offence and, in addition, may be dealt with by the council in terms of the provisions of this Chapter.

44. Cognisance by council of conduct of registered persons under certain circumstances

- (1) Every registered person who, either before or after registration, has been convicted of any offence by a court of law may be dealt with by the council in terms of the provisions of this Chapter if the council is of the opinion that such offence constitutes improper or disgraceful conduct, or conduct which when regard is had to such person's profession is improper or disgraceful, and shall be liable on proof of the conviction to one or other of the penalties referred to in section 45: Provided that, before imposition of any penalty, such person shall be afforded an opportunity of tendering an explanation to the council in extenuation of the conduct in question.

- (2) When in the course of any proceedings before any court of law it appears to the court that there is *prima facie* proof of improper or disgraceful conduct on the part of a registered person, or of conduct which when regard is had to such person's profession is improper or disgraceful, the court shall direct that a copy of the record of such proceedings, or such portion thereof as is material to the issue, or in the case of the payment by such person of an admission of guilt fine referred to in section 57 of the Criminal Procedure Act, 1977 (Act 51 of 1977), a copy of the summons or written notice in question, shall be transmitted to the council.

[S 44(2) subs by s 15(a) of Act 20 of 1979.]

- (3) The council shall appoint a person, excluding the registrar or a member, to institute and conduct before the council proceedings under this Chapter: Provided that if a person so appointed is absent or for any other reason unable to perform his duties, the council may, subject to the provisions of this subsection, appoint any other person to perform, during such absence or incapacity, the duties of such first-mentioned person.

[S 44(3) subs by s 15(b) of Act 20 of 1979.]

- (4) When it appears—
- (a) from any disciplinary proceedings held by an employer into the conduct of a person registered in terms of this Act or any institution at which education and training in pharmacy is offered, that there is *prima facie* evidence of unprofessional conduct on the part of such employee or a student being trained as a pharmacist;
 - (b) that the registration of a pharmacy student with an education and training institution has been suspended or cancelled,

then the employer or the institution shall furnish the council with a copy of the record of such proceedings, or such portion thereof that is material to the issue, or notify in writing the council of such suspension or cancellation.

[S 44(4) ins by s 35 of Act 88 of 1997.]

45. Penalties the council may impose

- (1) Any person registered under this Act who, after an inquiry held by the council in accordance with the provisions of this Chapter, has been found guilty of improper or disgraceful conduct, or conduct which when regard is had to such person's profession is improper or disgraceful, shall be liable to one or other of the following penalties—
- (a) a reprimand or a caution or a reprimand and a caution; or
 - (b) suspension for a specified period from practising or performing any acts forming part of his or her scope of practice as prescribed in terms of this Act; or
[S 45(1)(b) subs by s 16 of Act 20 of 1979, s 36(a) of Act 88 of 1997.]
 - (c) removal of his name from the register.
 - (d) A fine not exceeding the amount determined by the Minister from time to time by notice in the *Gazette*.

[S 45(1)(d) ins by s 36(b) of Act 88 of 1997.]

- (2) When the council has imposed one or other of the penalties referred to in subsection (1) the registrar shall cause to be published in the *Gazette* the name of the person concerned, the nature of the conviction and the penalty imposed.
- (3) Any person aggrieved by a finding of or penalty imposed by the council in terms of this section, may, after notice to the council and within a period of two months after the date of such finding or the imposition of the penalty, appeal to the provincial or local division of the Supreme Court of South Africa

having jurisdiction in the area wherein the appellant normally practises in the capacity in which he is registered, against such finding or penalty, and the provisions of section 24 shall apply *mutatis mutandis* to such an appeal: Provided that no finding of or penalty imposed by the council shall be set aside by reason only of an irregularity which did not embarrass or prejudice the appellant in answering the charge or in the conduct of his defence.

- (4) The council may, if it deems fit, and subject to such conditions (if any) as it may determine—
- (a) terminate any suspension under subsection (1) before the expiry of the specified period; or
 - (b) on payment of the prescribed fee restore to the register any name removed therefrom in terms of subsection (1).

45A. Postponement of imposition, and suspension of operation, of penalty

- (1) Where the council finds a person referred to in section 45(1) guilty of conduct referred to therein, it may—
- (a) postpone, for such period and on such conditions as it may determine, the imposition of a penalty; or
 - (b) impose any penalty mentioned in section 45(1)(b) or (c), but order the execution of such penalty to be suspended for such period and on such conditions as it may determine.
- (2)
- (a) If at the end of the period for which the imposition of a penalty has been postponed in terms of subsection (1)(a), the council is satisfied that the person concerned has observed all the relevant conditions, the council shall inform him that no penalty will be imposed upon him.
 - (b) If the execution of a penalty has been suspended in terms of subsection (1)(b), and the council is satisfied that the person concerned has observed all relevant conditions throughout the period of suspension, the council shall inform him that such penalty will not be executed.
 - (c) If the execution of a penalty has been suspended in terms of subsection (1)(b) and the person concerned fails to observe any of the conditions of suspension, the council shall put such penalty into operation unless such person satisfies the council that the non-observance of the condition in question was due to circumstances beyond his control.

[S 45A ins by s 17 of Act 20 of 1979.]

45B. Recovery of fines and cost orders

- (1) Any fine imposed in terms of this Act shall, unless an appeal has been noted against such penalty, be paid to the council within 14 days after the imposition thereof, or within such extended period and in such instalments as the council may in its discretion determine.
- (2) Any cost order made in terms of this Act shall—
 - (a) in the event of such order being made against the *pro forma* complainant or against the council be paid by the council within 14 days after the amount thereof has been fixed;
 - (b) in the event of such order being made against any other person be paid to the council within 14 days after the amount thereof has been fixed, or within such extended period and in such instalments as the council may in its discretion determine.
- (3) The imposition of a fine or the making of a cost order in terms of this Act shall have the effect of a judgment in civil proceedings in the magistrate's court of the district in which the person liable to pay such fine resides or has his or her registered address or main place of business.

[S 45B ins by s 37 of Act 88 of 1997.]

46. Penalty for false evidence

Any person who gives false evidence on oath at an inquiry held under this Chapter, knowing such evidence to be false, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for the crime of perjury.

47. Effect of suspension or removal from register

Every person who has been suspended or whose name has been removed from the register under this Chapter shall, if his profession is one which, under this Act, cannot be lawfully carried on by an unregistered person, be disqualified from carrying on his profession and his registration certificate shall be deemed to be cancelled until the period of suspension has expired or until his name has been restored to the register by the council.

48. Limitation of liability

Subject to the provisions of this Act the council or any member or officer of the council shall not be liable in respect of any act done in good faith or duty performed in accordance with this Act.

[S 48 subs by s 52 of Act 88 of 1986, s 38 of Act 88 of 1997.]

CHAPTER VI
GENERAL AND SUPPLEMENTARY PROVISIONS

49. Regulations

(1) The Minister may, in consultation with the council, make regulations relating to—

[Words preceding s 49(1)(a) subs by s 39(a) of Act 88 of 1997.]

(a) the practice of pharmacy, the conduct of the business of a pharmacist, the tariff of fees payable to a pharmacist in respect of professional services rendered by him and the trading activities of a pharmacist, including the goods or class of goods in which the pharmacist may not deal on the premises where the business of a pharmacist is conducted;

[S 49(1)(a) subs by s 18(a) of Act 20 of 1979, s 14(a) of Act 69 of 1985.]

(b) the manner in which the business of the council shall be conducted, the procedure to be followed at meetings of the council or committees of the council, and the manner in which the minutes of such meetings shall be kept;

(c) the manner in which the accounts of the council shall be kept and money accruing to the council shall be disposed of;

(d) any fees payable under this Act;

[S 49(1)(d) subs by s 18(b) of Act 20 of 1979, s 5 of Act 39 of 1982, s 14(b) of Act 69 of 1985, s 39(b) of Act 88 of 1997.]

(e) the conditions of service of officers appointed by the council;

(f) the forms of the registers, certificates, forms and documents to be kept, issued, completed or compiled in terms of this Act;

(g) the information to be furnished to the registrar by pharmacists, including pharmacists who are owners or managers of pharmacies or directors of bodies corporate or members or managers of corporations carrying on business in the Republic as pharmacists;

[S 49(1)(g) subs by s 14(c) of Act 69 of 1985.]

(h) the registration by the council of pharmacy students studying at any university or at any pharmacy school or other institution approved by the council;

(i) the standards of general education required of such students as a condition precedent to registration as a pharmacy student;

- (j) the minimum requirements of the curriculum and the duration of the course of study for a degree or diploma in pharmacy;

- (k)
 - (i) the syllabuses for the various subjects included in the curriculum for the diploma in pharmacy;
[S 49(1)(k)(i) subs by s 39(c) of Act 88 of 1997.]

 - (ii) the manner in which examinations for the diploma in pharmacy referred to in subparagraph (i) shall be conducted;

- (l)
 - (i) the registration by the council of pharmacist interns;

 - (ii) ...
[S 49(1)(l)(ii) rep by s 5(a) of Act 20 of 1983.]

 - (iii) the practical training to be undergone by such pharmacist intern;

 - (iv) the accommodation facilities, material, equipment and other requisites to be provided in a pharmacy where a pharmacist intern is being trained;

 - (v) the appointment of persons to inspect pharmacies where it is proposed to train pharmacist interns or where pharmacist interns are being trained;

 - (vi) the duties of persons appointed in terms of subparagraph (v) and the fees payable to them by the council in respect of inspections done by them;

- (m)
 - (i) the registration by the council of pharmaceutical technicians and other pharmaceutical auxiliary personnel;

 - (ii) the persons required to be registered as pharmaceutical technicians or other pharmaceutical auxiliary personnel and the circumstances under which such persons shall be required to be so registered;

 - (iii) the training and the educational or other qualifications required for registration as pharmaceutical technicians or other pharmaceutical auxiliary personnel;
[S 49(1)(m) subs by s 11 of Act 36 of 1977.]

(mA) supplementary training or refresher courses to be undergone or taken by persons registered under this Act and the provision of and control over such training or courses;

[S 49(1)(mA) ins by s 18(c) of Act 20 of 1979.]

(mB)

(i) the specialities in respect of which registered persons may apply for registration under section 28;

(ii) the requirements with which an applicant for registration of a speciality shall comply;

(iii) the exemption of an applicant for registration of a speciality, or any category of such applicants, from such requirements;

(iv) the conditions subject to which any registered person may carry on the profession of pharmacist in respect of any registered speciality, including conditions restricting the practice of any such person to the speciality registered in respect of such person;

[S 49(1)(mB) ins by s 5(b) of Act 20 of 1983.]

(n)

(i) the election of members of the council required to be elected in terms of section 5(1);

[S 49(1)(n)(i) subs by s 39(d) of Act 88 of 1997.]

(ii) the requirements for a valid nomination of a candidate for election as a member of the council;

(o) the conduct of an inquiry held in terms of section 39, including—

(i) the manner in which complaints or charges brought against a registered person shall be lodged;

(ii) the method of summoning an accused person and the penalties for failure or refusal on the part of any such person to attend as summoned or for obstructing or interrupting the proceedings;

(iii) any other matter relating to the conduct of such an inquiry;

(p) any matter which, in terms of any provision of this Act, is required to be or may be prescribed by regulation;

(q) generally, all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

- (2) The Minister may, after consultation with the executive committee of the council, if he deems it to be in the public interest—
- (a) without the recommendation of the council make regulations relating to any of the matters referred to in subsection (1) or amend or repeal any regulation made in terms of that subsection;
 - (b) amend or repeal any rule made in terms of the provisions of this Act.
- (3) Any proclamation or notice issued or regulation, rule or order made under this Act may from time to time be amended or repealed by the authority which issued or made it.
- (4) The council shall, not less than two months before any rule is made in terms of this Act, cause the text of such rule to be published in the *Gazette* together with a notice declaring the council's intention to make such a rule and inviting interested persons to furnish the council with comments thereon or any representations they may wish to make in regard thereto.
- [S 49(4) ins by s 39(e) of Act 88 of 1997.]
- (5) The Minister shall, not less than three months before any regulation is made in terms of this Act, cause the text of such draft regulation to be published in the *Gazette* together with a notice declaring the Minister's intention to make such a regulation and inviting interested persons to furnish the Minister with comments thereon or any representations they may wish to make in regard thereto: Provided that if the Minister thereafter decides to alter the draft regulations as a result of any objections or representations so submitted, it shall not be necessary to publish such alterations before making the regulations.

[S 49(5) ins by s 39(e) of Act 88 of 1997.]

49A. Delegation of powers

- (1) The Minister may delegate or authorise in writing the Director-General or any officer of the Department or the council to exercise any of the powers conferred upon him or her by this Act, other than the powers referred to in section 49.
- (2) The Director-General may delegate or authorise in writing any officer of the Department or the council to exercise any of the powers conferred upon him or her by this Act.

[S 49A ins by s 40 of Act 88 of 1997.]

50. Penalty where not expressly provided

Any person who contravenes any provision of this Act in respect of the contravention of which no penalty is expressly provided shall on conviction be liable to a fine not exceeding the amount determined by the Minister from time to time by notice in the *Gazette*.

[S 50 subs by s 41 of Act 88 of 1997.]

50A. ...

[S 50A ins by s 6 of Act 39 of 1982; am by s 6 of Act 20 of 1983; rep by s 10 of Act 6 of 1995.]

51. Abolition of Interim Pharmacy Council of South Africa, and transitional provisions

The Interim Pharmacy Council of South Africa shall cease to exist on the day immediately preceding the date of the first meeting of the council, and all rights, obligations, assets and liabilities acquired or incurred, as the case may be, by the Interim Pharmacy Council of South Africa, shall immediately vest in the council and the council shall be deemed to have acquired or incurred such rights, obligations, assets and liabilities in terms of this Act.

[S 51 subs by s 11 of Act 6 of 1995, s 42 of Act 88 of 1997.]

52. Savings

- (1) Any proclamation, notice, regulation, authorisation or order issued, made or granted or any registration, removal from a register, appointment or any other thing done in terms of a provision of any law repealed, shall, except in so far as may be otherwise required by this Act, be deemed to have been issued, made, granted or done under the provisions of this Act.
- (2) The members of the council as constituted immediately prior to the commencement of this Act shall continue to be members, and the council shall be deemed to be validly constituted in terms of this Act, until a date determined by the Minister and published in the *Gazette*.
- (3) If any of the members referred to in subsection (2) vacates his or her office, the council shall, until the date referred to in that subsection, consist of the remaining members.

[S 52 subs by s 43 of Act 88 of 1997.]

52A. Act binding on State

This Act is binding on the State.

[S 52A ins by s 44 of Act 88 of 1997.]

53. Short title

This Act shall be called the Pharmacy Act, 1974.