

PHARMACISTS, PHARMACY OPERATIONS AND DRUG SCHEDULING ACT

CHAPTER 363

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Definitions

1. In this Act:

"advertise" means to promote, directly or indirectly, the sale of drugs, devices or professional services;

"board" means the board of examiners established under this Act;

"bylaws" means bylaws made by the council under section 61 or the Lieutenant Governor in Council under section 63;

"care centre" means a centre where patients or clients receive care involving drugs or devices;

"clinical training" means rotations, clerkships and other practice experiences under section 75 (d) assigned in pharmacies, hospitals, facilities and care centres required of persons enrolled in the Doctor of Pharmacy degree program at the University of British Columbia;

"college" means the College of Pharmacists of British Columbia;

"conduct unbecoming a registrant" includes any conduct that is considered, in the judgment of the council or the discipline committee,

- (a) to be contrary to the best interests of the public or the profession as described in the bylaws, or
- (b) to harm the standing of the practice of pharmacy as a profession;

"costs" include disbursements, expenses, payments, charges, reimbursements or other costs that may be incurred by the college in an investigation, inquiry, hearing or disciplinary action taken under section 46, 47, 48, 49, 51, 53 or 54 or under the bylaws, concerning the conduct of a registrant, a corporation referred to in section 25, or a person referred to in section 22 (3);

"council" means the council of the college;

"device" means, if meeting the criteria listed in the bylaws, an article, instrument or apparatus used

- (a) to prevent, diagnose, treat or mitigate a disease, disorder or abnormal physical or mental state or a symptom of them,
- (b) to restore, correct or modify organic functions,
- (c) to diagnose pregnancy, or
- (d) to administer a drug;

"discipline committee" means the discipline committee established under section 52 and includes a panel of that committee;

"dispense" includes the preparation and sale of a drug or device referred to in a prescription and taking steps to ensure the pharmaceutical and therapeutic suitability of a drug or device for its intended use and taking steps to ensure its proper use;

"drug" means a substance or combination of substances used, or for use, in or on the body of a person or animal

- (a) to prevent, diagnose, treat or mitigate a disease, disorder or abnormal physical or mental state or a symptom of them, or
 - (b) to restore, correct or modify organic functions,
- and includes a prescribed substance or combination of substances;

"drug schedules" means drug schedules made under section 64;

"executive" means the executive committee of the council;

"facility" means

- (a) a community care facility holding a licence or temporary permit under section 4 of the *Community Care Facility Act* that provides residential care to adults,
- (b) a private hospital licensed under Part 2 of the *Hospital Act*, or
- (c) any other facility that is approved by the minister and meets the criteria set out in the bylaws in which limited access drugs or devices are distributed;

“hospital” means a hospital designated by the minister under section 1 of the *Hospital Act* and does not include a hospital owned by the government of British Columbia or Canada;

“inquiry committee” means the inquiry committee established under section 44 and includes a panel of that committee;

“inspector” means, except in Part 8, a person made an inspector by or under section 40;

“interchangeable drug” means a drug that contains the same amount of the same active ingredients, possesses comparable pharmacokinetic properties, has the same clinically significant formulation characteristics and is to be administered in the same way as the drug prescribed;

“limited access drug” means a drug which must not be sold

- (a) without a prescription, or
- (b) without the supervision or intervention of a pharmacist in accordance with the drug schedules and bylaws;

“manager” means a pharmacist who is designated in a pharmacy licence as manager of a pharmacy;

“pharmacist” means a person who is currently registered under section 15 or 16 as a pharmacist;

“pharmacy” means the area of a premises licensed under this Act where drugs or devices may be stored, dispensed or sold to the public;

“pharmacy licence” means a pharmacy licence issued under section 22 or 23;

“PharmaNet” means the Provincial computerized pharmacy network and database established under section 37;

“PharmaNet committee” means the committee established under section 38 and includes a panel of that committee;

“practical training” means training in the practice of pharmacy given in accordance with the bylaws, in a pharmacy, hospital, facility or care centre by a pharmacist approved for the purpose by the board, to a registrant or an applicant for registration;

“practice of pharmacy” includes the practice of and responsibility for

- (a) interpretation and evaluation of prescriptions,
- (b) compounding, dispensing and added labelling of drugs and devices,
- (c) monitoring drug therapy,
- (d) identification, assessment and recommendations necessary to resolve or prevent drug related problems in patients,
- (e) advising persons of the therapeutic values, content and hazards of drugs and devices,
- (f) safe storage of drugs and devices,
- (g) maintenance of proper records, including patient records, for drugs and devices,
- (h) services, duties and transactions necessary to the management, operation and control of a pharmacy or to provide pharmacy services in a hospital, facility or care centre, and
- (i) sale of drugs by pharmacists;

“practitioner” means a person authorized to practise medicine, dentistry, podiatry, veterinary medicine or a prescribed health care profession in which a practitioner of that profession is authorized to prescribe drugs or devices;

“prescription” means an authorization from a practitioner to dispense a specified drug or device for use by a designated individual or animal;

“qualifying candidate” means a person who is registered under section 14 as a qualifying candidate;

“registrant” means a student, a qualifying candidate or a pharmacist registered under this Act and, in sections 41 to 59, includes a former registrant;

“registrar” means the registrar of the college appointed by the council and includes a deputy registrar;

“respondent” means a registrant, a person named in section 22 (3) or a corporation described in section 25 (2) that

- (a) is the subject of an investigation under section 48,
- (b) is named in a citation issued in accordance with section 49,
- (c) is suspended under section 51, or
- (d) was the manager or owner of a pharmacy or a director of a corporation that owned a pharmacy at the time the pharmacy licence was suspended under section 51;

“rules” means the rules made by the council under section 62;

“sell” includes barter, distribute, supply, offer, expose, advertise or possess for the purpose of selling whether or not for consideration;

“special practice area” means a field of practice of pharmacy that is specified in a bylaw;

“student” means a person who is registered under section 13 as a student;

“support person” means a non-pharmacist who, under the direct supervision of a pharmacist, performs technical functions related to the dispensing, distribution or sale of drugs or the operation of a pharmacy;

“therapeutic interchange program” means a program or protocol under which alternate drugs are dispensed in place of prescribed drugs where the alternate drugs have different chemical compositions but essentially the same therapeutic objectives as the prescribed drugs for which they are substituted;

“wholesaler” means a pharmacist or other person who qualifies under the bylaws to be a wholesaler and sells or offers for sale drugs or devices

- (a) to pharmacies, distributors or other wholesalers for resale, or
- (b) to hospitals, facilities and care centres for patient use.

PART 1 - COLLEGE OF PHARMACISTS

College continued

2. (1) The Pharmaceutical Association of the Province of British Columbia, incorporated under the *Pharmacy Act*, 1891, is continued as a corporation under the name “College of Pharmacists of British Columbia” and the corporation has the powers of a natural person of full capacity.
- (2) It is the duty of the college at all times
 - (a) to serve and protect the public, and
 - (b) to exercise its powers and discharge its responsibilities under all enactments in the public interest.
- (3) The college has the following objects:
 - (a) to superintend the practice of pharmacy and the operation of pharmacies;
 - (b) to promote the contribution of pharmacists in ensuring the safe, rational and effective use of drugs and devices and in promoting health and well-being;
 - (c) subject to the *Food and Drugs Act* (Canada), to establish the terms and conditions of sale for drugs and devices;
 - (d) to ensure that the public is protected from the unauthorized or inappropriate sale of drugs and devices;
 - (e) to govern registrants according to this Act and the bylaws;
 - (f) to establish and maintain standards of educational and other qualifications for registrants;
 - (g) to establish, monitor and enforce standards of practice to enhance the quality of practice and reduce incompetent, impaired or unethical practice among registrants;
 - (h) to establish and maintain a quality assurance program to promote optimum practice standards among registrants;
 - (i) to establish a patient relations program to prevent professional misconduct, including sexual misconduct;

- (j) to establish, maintain and promote standards for pharmacies, including the ownership and operation of pharmacies;
- (k) to establish, maintain and enforce standards of professional ethics among registrants;
- (l) to require pharmacists to provide access for individuals to their patient records in appropriate circumstances;
- (m) to inform individuals about their rights under this Act and the bylaws and under the *Freedom of Information and Protection of Privacy Act*;
- (n) to administer the bylaws and rules of the college and the drug schedules and to perform other duties through the exercise of the powers under this Act.

Membership

3. Membership in the college consists of those persons who are registered as pharmacists under this Act.

Meetings of college

4. (1) The college must hold an annual general meeting of pharmacists in each year.
- (2) A special general meeting of the college may be called or, if the council receives a petition from not less than 75 pharmacists, must be called by the council.
- (3) Annual and special general meetings must be called by the council under the rules.

Voting, quorum, proxy etc.

5. (1) A person who is not a pharmacist must not vote at a meeting of the college.
- (2) The quorum at a meeting of the college is 50 pharmacists.
- (3) At a meeting a person must not act as proxy for more than 5 pharmacists.
- (4) A majority vote is required to pass a resolution or motion.

Council to administer college

6. (1) The council has the power to
- (a) administer and enforce this Act, the drug schedules, the bylaws and the rules,
 - (b) manage, administer and control the property, revenue, expenditure, business and affairs of the college, and
 - (c) lease land.
- (2) The president of the college is the chair of the council.
- (3) The council may buy or sell land on behalf of the college if so authorized by an annual general meeting or special general meeting of pharmacists.
- (4) Subject to the bylaws, the council may delegate a function or power under this Act or the bylaws to a committee of the council.
- (5) The council must submit to the minister within 90 days of the end of the fiscal year for the college an annual report for the college, and this report must include information required by regulation.

Composition of council

7. (1) The council consists of
- (a) the Dean of the Faculty of Pharmaceutical Sciences at the University of British Columbia,
 - (b) members who are pharmacists resident in British Columbia elected to the council under the rules, and
 - (c) members appointed by the Lieutenant Governor in Council who must not be registrants, former registrants, the equivalent in other jurisdictions of registrants or former registrants, owners of a pharmacy or directors of a corporation that owns a pharmacy.

- (2) The number of members under subsection (1) (b) is set by order of the Lieutenant Governor in Council after consultation with the president of the college.
- (3) The number of members under subsection (1) (c) is set by order of the Lieutenant Governor in Council and must not be less than 1/3 or more than 1/2 of the total number of members described by subsection (1).

Executive

8. (1) There must be an executive committee of the council composed of
 - (a) the president of the college, and
 - (b) not less than 4 other council members, including at least one of the council members appointed under section 7 (1) (c).
- (2) The executive committee members under subsection (1) (b) are appointed by the council at its first meeting after the college annual general meeting and hold office until replaced by the council.
- (3) The president of the college is the chair of the executive committee.
- (4) Subject to the conditions established by the council, under section 6, the executive committee has the same power as the council to do any of the things set out in that section.

Board of examiners

9. (1) There must be a board of examiners composed of not less than 5 pharmacists appointed by the council for a period of 3 years.
- (2) The assessments required by this Act or the bylaws must be conducted under the supervision of the board.
- (3) To be in effect, the assessment procedures of the board must be approved by the council.
- (4) The results of assessments must be reported to the council and the registrar who must notify the candidates.
- (5) A majority of the board constitutes a quorum.

PART 2 - REGISTRATION

Registrar

10. The council must appoint a pharmacist as registrar to carry out the duties imposed by this Act and the rules and other duties the council determines.

Registers

11. (1) The registrar must establish and maintain, in accordance with the rules, the registers as may be directed by the council.
- (2) An extract from a register, certified by the registrar, is proof in the absence of evidence to the contrary of its authenticity in any proceeding.
- (3) If the council is satisfied that an entry has been fraudulently or incorrectly made, it may direct the registrar to amend a register.
- (4) The registrar must amend the register if, in the manner provided in the bylaws, a registrant requests correction of an error in the register concerning the registrant and the error exists.

Inspection of register

12. (1) Subject to subsection (2), the register, the bylaws and the rules of the college are open to inspection by any person free of charge at all reasonable times during regular business hours.

- (2) The registrar or another person authorized by the registrar may refuse a person access to the register if the registrar or the authorized person, as the case may be, reasonably believes that the person is seeking access for commercial purposes.

Registration of students

13. (1) A person must be registered as a student if the person
 - (a) is enrolled, or was enrolled during the 6 months previous to making an application under paragraph (b), as a student in the Faculty of Pharmaceutical Sciences, or in a pharmacy program in the Faculty of Graduate Studies, at the University of British Columbia,
 - (b) applies to the registrar and pays the fees specified by the bylaws,
 - (c) meets the assessment requirements of this Act and the bylaws, and
 - (d) satisfies the board concerning
 - (i) the accuracy of the person's statement of date of birth, name and educational standing, and
 - (ii) the good character of the person consistent with the responsibilities of a registrant and the standards expected of a registrant.
- (2) A person to whom subsection (1) applies must be registered under this section before beginning a period of practical training in a pharmacy in British Columbia.
- (3) A registration under this section ends 6 months after the date the registrant graduates or is last enrolled as a student in the Faculty of Pharmaceutical Sciences, or in a pharmacy program in the Faculty of Graduate Studies, at the University of British Columbia.

Registration of qualifying candidates

14. (1) A person must be registered as a qualifying candidate if the person
 - (a) is currently or was formerly registered as the equivalent of a pharmacist in another jurisdiction, has graduated with a degree of Bachelor of Science in Pharmacy or the equivalent and, if not a graduate of the Faculty of Pharmaceutical Sciences at the University of British Columbia, is registered with the Pharmacy Examining Board of Canada, or has applied for reinstatement of registration under section 18,
 - (b) applies to the registrar and pays the fees specified by the bylaws,
 - (c) meets the assessment requirements of this Act and the bylaws,
 - (d) satisfies the board concerning
 - (i) the accuracy of the person's statement of date of birth, name and educational standing, and
 - (ii) the good character of the person consistent with the responsibilities of a registrant and the standards expected of a registrant, and
 - (e) promises in writing to comply with any conditions imposed under section 56.
- (2) A registration under this section ends after 3 years but may be renewed in accordance with the bylaws.

Registration of pharmacists

15. (1) A person must be registered as a pharmacist and is entitled to use the designation "R. Ph." or "R. Pharm." if the person
 - (a) is registered as a student and has graduated with a degree of Bachelor of Science in Pharmacy from the University of British Columbia, is registered as a qualifying candidate or is on the non-practising register,
 - (b) meets the assessment requirements of this Act and the bylaws,
 - (c) has served the period of practical training specified by the bylaws,
 - (d) applies to the registrar and pays the fees specified by the bylaws,
 - (e) satisfies the board of the good character of the person consistent with the responsibilities of a registrant and the standards expected of a registrant, and
 - (f) attests that there is compliance with this Act and the bylaws.
- (2) If the bylaws establish a special practice area and specify criteria for practice, or exclusion from practice, in the special practice area, a registration under this Act may limit the registrant in accordance with these criteria,
 - (a) to practise only in the special practice area, or
 - (b) from practice in the special practice area.

- (3) The registrar must issue proof of registration in the form specified in the rules to a person registered as a pharmacist.
- (4) If a pharmacist practises in a pharmacy, this proof of registration must be displayed by the pharmacist in a position conspicuous to the public in the pharmacist's principal place of practice.
- (5) A registration under this section is for 12 months and may be renewed under section 16.

Renewal of registration

16. (1) The registrar must renew a registration if the pharmacist
 - (a) applies in accordance with the bylaws,
 - (b) pays the fee for renewal of registration specified by the bylaws on or before the date it is due,
 - (c) pays any other outstanding fee, debt or levy owed to the college,
 - (d) meets the assessment requirements of this Act and the bylaws,
 - (e) satisfies the board that the pharmacist meets the requirements of a quality assurance program established under the bylaws, and
 - (f) attests that the pharmacist is in compliance with this Act, the bylaws and any conditions imposed under section 56.
- (2) If a pharmacist does not comply with subsection (1) on or before the date that the fee for renewal of registration is due, the pharmacist's registration is suspended.

Lifting of suspension

17. (1) If a person's registration is suspended under section 16 (2), the registrar must lift the suspension if the person complies with the requirements of section 16 (1) and pays the late payment fee specified by the bylaws.
- (2) If a suspension under section 16 (2) has not been lifted under subsection (1) within 3 years of the suspension, the registration is canceled.

Reinstatement of registration

18. Subject to conditions imposed under section 56, a person may apply to the registrar for reinstatement of registration in accordance with section 14 if the person has
 - (a) voluntarily withdrawn from registration in the register of students, the register of qualifying candidates or the register of pharmacists,
 - (b) been on the non-practising register for a period of 3 or more consecutive years, or
 - (c) had registration canceled under section 17 (2) or 54 (2) (j).

Ineligible applicants and registrants

19. A person must not apply for registration or continue to be registered as a registrant if the person knowingly is not qualified to be a registrant.

Appeal to council

20. (1) A person may appeal to the council from a decision of the registrar to refuse an application for
 - (a) a registration under section 13, 14, or 15,
 - (b) a renewal of registration under section 14 (2) or 16,
 - (c) a reinstatement of registration under section 18,
 - (d) a pharmacy licence under section 22,
 - (e) a renewal of a pharmacy licence under section 23, or
 - (f) a reinstatement of a pharmacy licence under section 24.
- (2) A person may appeal to the council from the decision of an inspector to remove drugs or devices under section 41 (1) (j).
- (3) The ruling of the council on an appeal under subsection (1) or (2) may be appealed by the person to the Supreme Court and the provisions of section 59 apply to this appeal.

Practising without registration

21. (1) No person may, unless registered as a pharmacist
- (a) practise as a pharmacist,
 - (b) subject to section 75, dispense a limited access drug except as authorized by a licence under section 67,
 - (c) act as an agent for a pharmacist except in a pharmacy, hospital, facility or care centre, or
 - (d) assume or use in any form, combination or manner the words "chemist," "pharmaceutical chemist," "druggist," "apothecary," "pharmacist," "R. Ph.," "R. Pharm." or words of similar meaning that imply registration under this Act.
- (2) No person may use the designation of a special practice area unless the requirements in the bylaws are met.

PART 3 - PHARMACY LICENSING AND OPERATION

Pharmacy licence

22. (1) Subject to subsection (2), the registrar must issue a pharmacy licence to a person who
- (a) applies under the bylaws to the registrar for a pharmacy licence,
 - (b) satisfies the registrar that
 - (i) the ownership of the pharmacy meets the requirements of the Act and none of the owners or directors is subject to a limitation under section 54 (2) (d) that precludes being an owner or director, as the case may be,
 - (ii) the pharmacy is to be under the actual management of a pharmacist,
 - (iii) the floor plan of the pharmacy is in accordance with the bylaws,
 - (iv) the premises where the pharmacy is to be located are suitable for its operation,
 - (v) the pharmacy is equipped to comply with requirements specified in the bylaws, and
 - (vi) the name of the pharmacy is suitable, and
 - (c) pays the fees specified by the bylaws.
- (2) Before issuing, renewing or reinstating a licence under this section or section 23 or 24, the registrar may
- (a) consult with the council regarding the application, or
 - (b) refer the matter to the council to issue, renew or reinstate the pharmacy licence under this section or section 23 or 24 in place of the registrar.
- (3) The licence must include
- (a) the name and address of the pharmacy,
 - (b) the name of the manager of the pharmacy,
 - (c) the name of the owner, and
 - (d) if the owner is a corporation or a partnership of corporations, the names of the directors of the corporation or corporations.
- (4) The manager must display the licence issued under subsection (1) in a place within the pharmacy where it is conspicuous to the public.
- (5) Subject to section 26, the manager must give 30 days' written notice to the registrar of any changes respecting the name or layout of the pharmacy and, on receipt of notification and the fees specified by the bylaws, the registrar must amend the licence accordingly.
- (6) A licence under this section is for 12 months and may be renewed under section 23.

Renewal of pharmacy licence

23. (1) The registrar must renew the pharmacy licence if the manager
- (a) applies in accordance with the bylaws,
 - (b) attests that the operation of the pharmacy is in compliance with this Act, the drug schedules and the bylaws,
 - (c) attests that the name, location and approved floor plan of the pharmacy and the names referred to in section 22 (3) have not been changed since the licence was last issued, amended or renewed or, if changed since the licence was last issued, the licence has been accordingly amended under section 22 (5),

- (d) attests that the manager will comply with the responsibilities of a manager set out in the bylaws, and
 - (e) pays the fee for renewal of a pharmacy licence specified by the bylaws on or before the date it is due.
- (2) If the licence is renewed, the registrar must issue a new licence to the manager.
- (3) If a manager fails to renew the licence in accordance with this section, the licence becomes invalid on its expiry date.

Reinstatement of pharmacy licence

24. If a pharmacy licence expires under section 23 (3), the registrar must reinstate the licence if
- (a) a person complies with section 23 (1) and pays the reinstatement fee specified by the bylaws, and
 - (b) the pharmacy meets the requirements set out in section 22 (1) (b).

Pharmacy ownership

25. (1) A person authorized by any enactment to prescribe drugs must not, directly or indirectly, own a pharmacy.
- (2) A pharmacy must be owned by
- (a) a pharmacist or a partnership of pharmacists,
 - (b) a corporation incorporated under the *Company Act* in which the majority of directors in the corporation are pharmacists,
 - (c) a partnership of corporations in which each corporation is incorporated under the *Company Act* and a majority of directors in each corporation are pharmacists,
 - (d) a hospital as defined in the *Hospital Act*,
 - (e) an association incorporated under the *Cooperative Association Act*,
 - (f) a society incorporated under the *Society Act*,
 - (g) a university as defined in the *University Act*,
 - (h) the City of Vancouver or a municipality, or
 - (i) the government.
- (3) The owner of a pharmacy, and the directors of a corporation that owns a pharmacy, must comply with the bylaws respecting the duties of an owner.

Change of management or ownership

26. (1) A pharmacy licence is canceled if
- (a) a manager ceases to manage the pharmacy,
 - (b) the location of the pharmacy changes, or
 - (c) subject to subsection (2), the ownership of the pharmacy changes.
- (2) If the owner of a pharmacy becomes bankrupt, insolvent or makes an assignment for the general benefit of creditors, the trustee in bankruptcy, liquidator or assignee may continue to operate the pharmacy for a period of not more than 6 months following the date of bankruptcy, insolvency or assignment so long as the pharmacy is under the actual management of a pharmacist.
- (3) In the case of a sole proprietorship, if the owner of a pharmacy dies, the personal representatives or trustees of the sole proprietor's estate may continue to operate the pharmacy subject to any terms the council may impose for a period of not more than 5 years following the date of death so long as the pharmacy is under the actual management of a pharmacist.
- (4) A person must give 30 days written notice of the change to the registrar before ceasing to be a manager of a pharmacy or before relinquishing ownership of the pharmacy.

Operating without a licence

27. (1) No person may own, operate, manage or serve as a director of a corporation that owns a pharmacy except as authorized by a pharmacy licence issued under section 22 or 23.

- (2) No owner, manager or director of a corporation that owns a pharmacy may operate or permit the operation of a pharmacy that is not in compliance with the requirements of section 22 (1) (b).
- (3) No person may assume or use in any form, combination or manner the words "apothecary," "pharmacy," "medicines," "drugs," "drug store," "drug department" or any other words of similar meaning that imply licensing under section 22 or 23.

PART 4 - PROHIBITIONS AND DUTIES

Injunctive relief

28. The Supreme Court may, on application of the council and on being satisfied that there is reason to believe that there is or will be a contravention of this Act, the drug schedules or the bylaws made under it, grant an injunction restraining a person from committing it, and, pending disposition of the action seeking the injunction, the court may grant an interim injunction.

Sale, dispensing or disposal of drugs and devices

29. A person must not sell, store or dispose of a drug or device listed or included by reference in the drug schedules in any manner other than that specified in the bylaws and drug schedules.

Interchangeable drugs

30. (1) If a practitioner indicates in a prescription that
 - (a) only the drug of a specified manufacturer, or
 - (b) no interchangeable drugis to be dispensed, a pharmacist must not dispense an interchangeable drug.
 - (2) If a practitioner has not made the indication described in subsection (1), a pharmacist may dispense an interchangeable drug provided its price to the purchaser does not exceed that of the prescribed drug.
 - (3) An indication from a practitioner under subsection (1) must be made by the practitioner to a pharmacist either
 - (a) orally, or
 - (b) in writingat the time a prescription is issued.
 - (4) No action for damages or any other proceeding may be brought against a registrant solely because an interchangeable drug was dispensed in accordance with this section.

Terms of a prescription

31. (1) A registrant must not dispense a prescription drug or device in any manner or in a quantity that is not authorized in the prescription unless the change is permitted by subsection (2) or section 30.
 - (2) A registrant may dispense a drug or device contrary to the terms of a prescription
 - (a) if the prescription quantity of the drug or device does not conform to available package sizes,
 - (b) if it is within the specifications established under a therapeutic interchange program or protocol approved by the governing body of a hospital or by the council,
 - (c) if it is within the specifications established under a protocol intended to optimize the therapeutic outcome of treatment with the prescribed drug or device that has been approved by the council, or
 - (d) if the variance is permitted for professional reasons described in the bylaws.

Misrepresentation

32. (1) A registrant must not knowingly make a misleading or untruthful statement about a drug or device.
 - (2) A registrant must not dispense or sell or permit the dispensing or sale of a thing represented to be a drug or device or a particular drug or device if it is not the drug or device or particular drug or device represented.
 - (3) If it is alleged that a registrant has contravened subsection (2), the onus is on the registrant to prove that the thing dispensed or sold was the particular drug or device represented.

- (4) Despite subsections (1) and (2), nothing precludes the use of placebos by qualified researchers or practitioners in drug research or medical treatment protocols when done in accordance with protocols established in the bylaws.

Presence of drugs or devices on business premises

33. The presence on business premises of a drug or device listed or included by reference in the drug schedules is proof in the absence of evidence to the contrary that it is kept for dispensing or sale.

Manager

34. Subject to this Act and the bylaws, a pharmacist named in a pharmacy licence as manager must personally manage and be responsible for the operation of the pharmacy.

Duties of a pharmacist

35. (1) Except as specified by the bylaws, a pharmacy must not be open or operate unless a pharmacist is in the pharmacy.
- (2) A qualifying candidate, student or support person must not sell or dispense a drug or device listed or included by reference in the drug schedules unless supervised by a pharmacist.
- (3) In relation to patient record information, a pharmacist must collect, retain, maintain, correct, protect, use and disclose the information for a complete patient record only in the manner and for the purposes provided in the bylaws.
- (4) A pharmacist must not, directly or indirectly, sell, store or dispense a limited access drug or device except in a pharmacy, hospital, facility or care centre.
- (5) A pharmacist must notify the registrar in writing of
- (a) the names and addresses of the pharmacies where the pharmacist practises,
 - (b) the address where the pharmacist resides, and
 - (c) a change in information given under paragraph (a) or (b) within 30 days of the change.

Confidentiality

36. A person who obtains information, files or records under this Act must not disclose them to any other person except for the purposes permitted by this Act, the purposes of carrying out a duty under the bylaws or as required by law.

Establishment of PharmaNet

37. (1) The minister may establish a Provincial computerized pharmacy network and database known as PharmaNet in which the patient record information of all persons to whom prescriptions are dispensed in British Columbia must be recorded for the purpose of facilitating
- (a) the practice of pharmacy,
 - (a.1) the therapeutic treatment or care of patients by persons referred to in section 38.1(1),
 - (b) the monitoring, by the college, of the practice of pharmacy,
 - (c) the monitoring, by a practitioner, of drug use by those persons,
 - (d) claims and payment administration by a federal or Provincial government payment agency or an insurer that reimburses the cost of prescribed drugs, devices or pharmacy services,
 - (e) a review, by the minister or a person designated by the minister, of the use and prescription of drugs and devices,
 - (f) an investigation, by the minister or a person designated by the minister, of the abuse, the misuse or the inappropriate or fraudulent prescription of drugs or devices,
 - (g) an investigation, by the college or a regulatory body for a practitioner, of the abuse, the misuse or the inappropriate or fraudulent prescription of drugs or devices, and
 - (h) scientific or drug utilization research conducted at a university or hospital or as approved by the college.
- (2) Subject to section 38 (1), the minister is responsible for managing PharmaNet.

PharmaNet committee

38. (1) The council must, by bylaw, establish a committee consisting of not more than 10 persons appointed by the council to manage, in accordance with this Act and the bylaws, disclosure of information from that portion of the PharmaNet database that contains patient record information and general drug information.
- (2) The PharmaNet committee must include
- (a) 3 persons nominated by the minister,
 - (b) one person nominated by the council of the College of Physicians and Surgeons of British Columbia, and
 - (c) one person nominated by the Dean of the Faculty of Pharmaceutical Sciences at the University of British Columbia.
- (3) The council must, by bylaw, specify the procedures for the operation of the PharmaNet committee.
- (4) A bylaw made under subsection (3) may provide for the use of panels of the PharmaNet committee members to conduct the business of that committee.

Access to PharmaNet patient record information

- 38.1 (1) Subject to this Act and any applicable regulation under subsection (2) (c), the following may have access to patient record information on the PharmaNet system:
- (a) pharmacists;
 - (b) medical practitioners designated under subsection (2) (a);
 - (c) other persons designated under subsection (2) (b).
- (2) In relation to access referred to in subsection (1), the Lieutenant Governor in Council may make regulations
- (a) designating medical practitioners, by name or by class as established by the regulation, who are permitted to have access for the purpose of providing therapeutic treatment or care to patients,
 - (b) designating other persons, by name or by class as established by the regulation, who are permitted to have access for the purpose of providing therapeutic treatment or care to patients, and
 - (c) establishing requirements, restrictions and conditions relating to access by a person or a class of persons. (See page 27 for regulations pursuant to this section.)

Disclosure of patient record information

39. (1) Subject to subsections (2), (3) and (4), if the bylaws specify that specified patient record information must not be disclosed, a pharmacist must not disclose, or allow a support person, a registrant who is not a pharmacist, or other employee to disclose the patient record information to a person other than the person named in that record.
- (2) Subject to the bylaws, a pharmacist must, on request, disclose patient record information to
- (a) the person who is the subject of the record, or
 - (b) the personal representative of the person named in the record if that person directs in writing that the disclosure be made.
- (3) Subject to the bylaws, a pharmacist must, on request, disclose relevant patient record information to
- (a) another pharmacist for the purpose of dispensing a drug or device,
 - (b) another pharmacist or a practitioner for the purpose of monitoring drug use,
 - (c) a federal or Provincial government payment agency or an insurer that reimburses the cost of prescribed drugs, devices or pharmacy services for the purpose of making a payment, or
 - (d) the college for the purpose of monitoring the practice of pharmacy.
- (4) Subject to the bylaws, the PharmaNet committee must, on request, disclose relevant patient record information to
- (a) the minister, or a person designated by the minister for the purpose of
 - (i) reviewing the use and prescription of drugs and devices, or
 - (ii) investigating the abuse, misuse or the inappropriate or fraudulent prescription of drugs or devices, or
 - (b) the regulatory body for a practitioner, following notification of the registrar, for the purposes of investigating the abuse, misuse or the inappropriate or fraudulent prescribing of drugs or devices.

- (5) Subject to the bylaws, the PharmaNet committee may, on request, disclose patient record information to a person engaged in scientific or drug utilization research at a university or hospital or a person approved by the college for the purpose of conducting that research, without disclosing the names and addresses of the patients and the practitioners.
- (6) Except as provided in the bylaws, a pharmacist or the PharmaNet committee must not disclose patient record information for the purposes of market research.
- (7) A person who receives patient record information under this section must not disclose the information to another person, unless it is to be used for the purpose for which it was originally disclosed.

PART 5 - INSPECTIONS AND INQUIRIES

Appointment of an inspector

40. (1) The council or the registrar may appoint a person as an inspector.
- (2) The registrar is an inspector.

Powers of an inspector

41. (1) An inspector may at any reasonable time, without a court order under section 45, do one or more of the following:
 - (a) inspect the premises in which, and equipment and materials with which, a registrant practises pharmacy or carries out duties and procedures delegated by a pharmacist;
 - (b) inspect the inventory of drugs and devices within a pharmacy, hospital, facility or care centre;
 - (c) inspect the pharmacy records;
 - (d) inspect the records of a registrant concerning the registrant's practice of pharmacy;
 - (e) inspect the hospital, facility or care centre records relating to pharmacy services;
 - (f) 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;
 - (g) observe the practice of pharmacy or the carrying out of the delegated duties and procedures in a pharmacy, hospital, facility or care centre including the carrying out of related duties and procedures by or on behalf of a registrant;
 - (h) remove a prescription file, drug, drug container, device, patient record or other record from a pharmacy, hospital, facility or care centre for a period of no longer than 5 clear days for the purpose of copying or photographing it if it is impractical to make the copy or take the photograph at the pharmacy, hospital, facility or care centre;
 - (i) remove a sample of a drug or other thing from a pharmacy, hospital, facility or care centre for the purpose of analyzing its composition;
 - (j) remove from a pharmacy, hospital, facility or care centre for consideration by the inquiry committee
 - (i) drugs or devices the inspector considers unfit for sale, or
 - (ii) drugs or devices for which the expiry date has passed.
- (2) If a drug or device has been removed under subsection (1) (j), it may be disposed of as directed by the discipline committee or the inquiry committee unless a court has ordered otherwise.

Inspector's report

42. An inspector must make a written report to
 - (a) the inquiry committee of the results of an investigation initiated under section 48, or
 - (b) the registrar, inquiry committee or discipline committee of an action under section 41 performed at the request of the registrar, inquiry committee or discipline committee.

Obstruction of an inspector

43. (1) A person must not mislead, obstruct, harass or physically or verbally abuse the registrar or an inspector appointed under section 40 or 68 in the lawful performance of duties or exercise of powers under this Act, the regulations or bylaws.

- (2) A person must not mislead, obstruct, harass or physically or verbally abuse another person who is lawfully exercising powers under section 45, 46 or 47.

Inquiry committee

44. (1) The council must establish an inquiry committee composed of
 - (a) at least one person who is not a registrant, a former registrant, the equivalent in other jurisdictions of registrant or former registrant, an owner of a pharmacy, or a director of a corporation that owns a pharmacy, and
 - (b) not less than 5 pharmacists, at least one of whom is a member of the council.
- (2) The council must, by bylaw, specify the procedures related to the operation of the inquiry committee, including the use of panels of committee members to conduct investigations.
- (3) If panels of the inquiry committee are used, at least one member of the panel must not be a registrant, a former registrant, an owner of a pharmacy or a director of a corporation that owns a pharmacy.

Court orders

45. (1) The registrar, a member of the inquiry committee or an inspector instructed by the registrar may, without notice to any person, apply to a judge of the Supreme Court for an order that authorizes a person named in the order to enter a building, place or vehicle and search for and examine, audit or seize records, drugs, devices or things.
- (2) The court may make the order applied for under subsection (1), subject to any conditions the court considers proper, if the court is satisfied that reasonable and probable grounds have been established, on oath, that
 - (a) a person has contravened this Act,
 - (b) a registrant
 - (i) has contravened this Act, the drug schedules or the bylaws,
 - (ii) has failed to comply with a limit or condition imposed under this Act, the drug schedules or the bylaws,
 - (iii) has been or is negligent or incompetent,
 - (iv) has committed professional misconduct or conduct unbecoming a registrant,
 - (v) has used fraud or misrepresentation to obtain
 - (A) registration, reinstatement of registration or renewal of registration under this Act,
 - (B) a pharmacy licence, reinstatement of a pharmacy licence or renewal of a pharmacy licence under this Act, or
 - (C) payment or reimbursement for a drug, device or other pharmacy service,
 - (vi) has been convicted of an offence that is related to the practice of pharmacy, or
 - (vii) has suffered or is suffering from a physical, mental, financial or other condition, an emotional disturbance or an addiction to alcohol or drugs that affects the practice of pharmacy by the registrant, or
 - (c) records, drugs, devices or things that may afford evidence relevant to the contravention, incompetence, misconduct, unbecoming conduct or impairment are in a building, place or vehicle.
- (3) The order must identify the building, place or vehicle to be entered and must be reasonably specific as to any record, drug, device or thing to be searched for and examined, audited or seized and may specify the time of entry, the manner for disposition of records, drugs, devices or things seized and the nature and degree of access by any person to records, drugs, devices or things seized.
- (4) Despite subsection (3), a person conducting or attempting to conduct an entry or search under this section may seize and remove a thing not described in the order for entry or search if the person has reasonable grounds to believe the thing is evidence of a contravention of this Act, the drug schedules or the bylaws.
- (5) The person from whom any record, drug, device or thing is seized under this section is entitled, at all reasonable times, to inspect the record, drug, device or thing and to obtain one copy of that record at the expense of the college.
- (6) If records, drugs, devices or things have been seized under this section, they may, unless a court otherwise orders, be disposed of as directed by the discipline committee or the inquiry committee.

Copies of evidence

46. If a record or document is inspected, examined, audited, temporarily removed or seized under section 41 or 45, the inspector may make or cause to be made one or more copies of it and any record or document purporting to be certified by the registrar, an inspector or a person named in the order for which application is made under section 45 (1) to be a true copy made under this section is evidence of the nature and content of the original record or document.

Detention of things seized

47. (1) For the purposes of subsection (2), a person who makes a seizure under section 45 must report the seizure as soon as practicable to the judge who issued the order under which the seizure was made and, if this is not practicable, to another judge of the Supreme Court.
- (2) On receiving a report under subsection (1), the judge must
- (a) order the thing that was seized returned to its owner or other person entitled to it unless satisfied that an order under paragraph (b) should be made, or
 - (b) order the thing detained if satisfied that the detention is required for the purposes of an investigation or proceeding relating to a matter referred to in section 45.
- (3) A record must not be detained under this section for a period longer than 3 months from the time of its seizure unless,
- (a) the person from whom it was seized agrees to its continued detention, or
 - (b) a judge of the Supreme Court, on application and after being satisfied that its continued detention is justified, orders its continued detention for a specified period of time.

Investigations

48. (1) The inquiry committee must, on receipt of a complaint referred to it by the registrar, and may, on its own motion, investigate a complaint or other matter related to
- (a) a registrant,
 - (b) the operation of a pharmacy, or
 - (c) the sale, storage or disposal of drugs or devices by any person.
- (2) The inquiry committee or the registrar may direct an inspector to undertake any aspect of an investigation begun under subsection (1) in order to make a proper assessment of a complaint or matter.
- (3) For the purposes of an investigation under this section, the inquiry committee may refer a complaint or other matter to a committee of the council other than the discipline committee, or to another agency or person, for a review and report back to the inquiry committee.
- (4) The inquiry committee may dismiss a matter or complaint if, following an investigation, it is satisfied that the matter or complaint
- (a) has been resolved, or
 - (b) requires no further action because it is of a trivial, frivolous or vexatious nature.
- (5) If the inquiry committee does not direct the registrar to issue a citation regarding a matter investigated under this section, it must
- (a) report in writing to the council and registrar regarding its decision and the results of its investigation, and
 - (b) in the case of an investigation of a complaint, notify the complainant in writing of its decision.
- (6) If subsection (4) does not apply, the inquiry committee may act under subsection (8) or request a respondent to do one or more of the following:
- (a) undertake not to repeat the conduct to which a matter or complaint relates;
 - (b) undertake to take educational courses specified by the inquiry committee;
 - (c) consent to a reprimand;
 - (d) undergo a medical assessment to identify any medical or psychiatric problem, or any sight, hearing or other physical impairment, that may affect the respondent's practice of pharmacy;
 - (e) undertake or consent to any other action specified by the committee.

- (7) The inquiry committee may direct the registrar to issue a citation for a hearing in accordance with section 49 if a respondent
 - (a) refuses to give an undertaking or consent requested under subsection (6), or
 - (b) fails to comply with an undertaking or consent given in response to a request under subsection (6).

- (8) If the inquiry committee has reasonable and probable grounds to believe that a registrant who is the subject of a complaint or matter
 - (a) has contravened this Act, the drug schedules or the bylaws,
 - (b) has failed to comply with a limit or condition imposed under this Act, the drug schedules or the bylaws,
 - (c) has been or is negligent or incompetent,
 - (d) has committed professional misconduct or conduct unbecoming a registrant,
 - (e) has used fraud or misrepresentation to obtain
 - (i) registration, reinstatement of registration or renewal of registration under this Act,
 - (ii) a pharmacy licence, reinstatement of a pharmacy licence or renewal of a pharmacy licence under this Act, or
 - (iii) payment or reimbursement for a drug, device or other pharmacy service,
 - (f) has been convicted of an offence that is related to the practice of pharmacy, or
 - (g) has suffered or is suffering from a physical, mental, financial or other condition, or an addiction to alcohol or drugs that affects the registrant's practice of pharmacy,
 the committee must direct the registrar to issue a citation for a hearing in accordance with section 49.

- (9) If, after directing the registrar to issue a citation, the inquiry committee determines that a hearing is not required, the committee must
 - (a) direct the registrar to cancel the citation and notify the respondent and the complainant, if any, of the cancellation,
 - (b) proceed under subsection (3), (4) or (6), and
 - (c) report in writing to the council and registrar.

PART 6 - DISCIPLINE

Citation

- 49. (1) On receipt of a direction from the inquiry committee under section 48, the registrar must prepare a citation that
 - (a) names the respondent,
 - (b) contains sufficient detail of the circumstances of a complaint or matter to give a respondent reasonable information with respect to the act or omission to be proved against the respondent,
 - (c) specifies the date, time and place of the hearing,
 - (d) advises that a respondent is entitled to be accompanied or represented by a lawyer at the hearing, and
 - (e) advises a respondent that the discipline committee is entitled to proceed with the hearing in the respondent's absence.

- (2) The registrar must have a citation served personally on a respondent or by registered mail at the respondent's last known address not less than 30 days before the date of the hearing.

- (3) A citation may contain one or more allegations.

- (4) A citation may be amended if new information becomes available.

- (5) If the subject of a citation is a complaint, the registrar must notify the complainant, not less than 14 days before a hearing, of the date, time and place of the hearing and of the complainant's entitlement to be accompanied or represented by a lawyer at that hearing.

Non-attendance

- 50. If a respondent does not attend a hearing, the discipline committee may

- (a) proceed with the hearing in the respondent's absence on proof of receipt of the citation by that respondent, and
- (b) without further notice to the respondent, take any action that it is authorized to take under this Act or the bylaws.

Extraordinary suspension of registration or pharmacy licence

51. (1) If the inquiry committee considers such action necessary to protect the public during an investigation under section 48 or pending a hearing under section 53, it may
- (a) set conditions on the practice of the respondent, or
 - (b) order that the registration of the respondent be suspended pending a hearing under section 53 and a determination under section 54.
- (2) Despite section 49 (2), if subsection (1) (b) applies, the hearing under section 53 must be held as soon as practicable after the date of the suspension.
- (3) The inquiry committee may order that a pharmacy licence be suspended if it determines that the requirements of section 22 (1) are being contravened and it considers the order necessary to protect the public.
- (4) If the inquiry committee sets conditions under subsection (1) (a) or suspends the registration of a respondent under subsection (1) (b) or a pharmacy licence under subsection (3), it must give written notice to the respondent of its decision and the reasons for it and of that respondent's right to apply to the Supreme Court to have the suspension lifted.
- (5) A suspension of registration under subsection (1) (b) or of a pharmacy licence under subsection (3) is not to be effective until the earlier of
- (a) receipt by the respondent of the notice, or
 - (b) 3 days after the day the notice is sent by registered mail to a respondent at the respondent's last known address, the date of which mailing may be proved by affidavit.
- (6) A respondent whose registration has been suspended under subsection (1) (b) or the manager or owner named on a pharmacy licence which has been suspended under subsection (3) may apply to the Supreme Court to have the suspension lifted, and section 59 applies to this appeal.
- (7) The inquiry committee must lift a suspension and, as soon as possible, notify the respondent in writing of its determination, if, after the suspension has been ordered
- (a) under subsection (1) (b), the inquiry committee determines that a hearing is not required or that the suspension is not necessary before a hearing, or
 - (b) under subsection (3), the inquiry committee determines that the requirements of section 22 (1) have been met.

Discipline committee

52. (1) The council must establish a discipline committee composed of not less than 7 persons appointed by the council and, of these persons
- (a) at least one must not be a registrant, former registrant, the equivalent in other jurisdictions of a registrant or former registrants, owner of a pharmacy or director of a corporation that owns a pharmacy,
 - (b) at least 6 must be pharmacists, and
 - (c) at least one of the pharmacists must be a member of the council.
- (2) The Council must, by bylaw, specify the procedures related to the operation of the discipline committee, including the use of panels of committee members to conduct hearings.
- (3) If panels of the discipline committee are used, at least one member of any panel must not be a registrant, a former registrant, an owner of a pharmacy or a director of a corporation that owns a pharmacy.

Discipline committee hearing

53. (1) The discipline committee must hear and determine a matter set for hearing by citation issued under section 49.

- (2) The respondent, the college and the complainant, if any, may appear as parties at a hearing of the discipline committee and may be represented by a lawyer.
- (3) A hearing of the discipline committee must be in public unless
 - (a) the complainant, the respondent or the college requests the discipline committee to hold the hearing in private, and
 - (b) the discipline committee is satisfied that a private hearing would be appropriate in the circumstances.
- (4) At a hearing of the discipline committee
 - (a) the testimony of witnesses must be taken on oath, which may be administered by any member of the discipline committee, and
 - (b) there must be a full right to cross examine witnesses and call evidence in defense and reply.
- (5) The discipline committee may, by subpoena, in a form set out by bylaw, order a person to attend at the hearing to give evidence or to produce records in the possession or under the control of the person.
- (6) On application by the discipline committee to the Supreme Court, a person who fails to attend or to produce records as required by an order under subsection (5) is liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court.
- (7) If the discipline committee considers the action necessary to protect the public between the time a hearing is commenced and the time it makes an order under section 54 (2), the discipline committee may impose conditions on the practice of pharmacy by the registrant or may suspend the registration of the respondent and, for these purposes, section 51 applies.

Disciplinary action

54. (1) The discipline committee must, after giving a respondent an opportunity to be heard, determine if the respondent
 - (a) has contravened this Act, the drug schedules or the bylaws,
 - (b) has been negligent or is incompetent,
 - (c) has committed professional misconduct or conduct unbecoming a registrant,
 - (d) has used fraud or misrepresentation to obtain
 - (i) registration, reinstatement of registration or renewal of registration under this Act,
 - (ii) a pharmacy licence, reinstatement of a pharmacy licence or renewal of a pharmacy licence under this Act, or
 - (iii) payment or reimbursement for a limited access drug, device or pharmacy service,
 - (e) has been convicted of an offence that is related to the practice of pharmacy, or
 - (f) has been or is suffering from a physical, mental, financial or other condition, an emotional disturbance or an addiction to alcohol or drugs that affects the practice of pharmacy.
- (2) On the discipline committee making a determination under subsection (1), it must, within a reasonable period, by order, do one or more of the following:
 - (a) dismiss the matter;
 - (b) reprimand the respondent;
 - (c) impose conditions on the practice of pharmacy by the respondent;
 - (d) impose conditions on the operation of a pharmacy;
 - (e) prohibit the person from owning, or serving as a director of a corporation that owns, a pharmacy or set limits for a specified period on what activities the person can carry out as an owner or director;
 - (f) fine the respondent an amount not greater than an amount set out in the bylaws;
 - (g) require the respondent to pay the college all or part of the costs within a specified time period and the bylaws may set limits for the calculation of these costs;
 - (h) suspend the registration of the respondent or continue any suspension made under section 51 (1) (b) for a period that it considers appropriate;
 - (i) suspend the pharmacy licence of the respondent, or continue any suspension under section 51 (3), for a period that it considers appropriate;
 - (j) cancel the registration of the respondent;

- (k) cancel the pharmacy licence of the respondent.
- (3) An order under subsection (2) must be in writing and be sent by registered mail to a respondent at the respondent's last known address, the date of which mailing may be proved by affidavit and must be sent to the complainant.
- (4) If a fine or cost ordered under subsection (2) has not been paid in full within 28 days of the order, or within a longer period specified by the discipline committee,
 - (a) the fine or cost or a portion of it may be recovered as a debt owing to the college and, if collected, is the property of the college, and
 - (b) for the period beginning on the 29th day, or a later day specified by the discipline committee for payment, after the order under subsection (2) is made, until the fine or costs are paid in full, interest at an annual rate of 2% above the prime lending rate of the principal banker to the government is payable by the respondent on the balance of the fine or cost ordered under subsection (2) that is outstanding and this interest is deemed to be part of the fine or cost ordered under subsection (2) for the purposes of paragraph (a).

Effect of suspension

- 55. (1) If the registration of a person is suspended, all the person's rights and privileges as a registrant cease until the suspension is lifted.
- (2) If the licence for a pharmacy is suspended, the premises must be closed to the public until the lifting of the suspension.

Conditions

- 56. If a registration or pharmacy licence is suspended under section 51, the inquiry committee may, or if a pharmacy licence or registration is suspended or canceled under section 53 (7) the discipline committee may,
 - (a) impose conditions for lifting the suspension or reinstating of the registration,
 - (b) direct that the lifting of the suspension or the reinstatement of the registration will occur on
 - (i) a date specified in the order, or
 - (ii) the date the committee determines that the person has complied with the conditions imposed under paragraph (a), or
 - (c) impose conditions on the practice of the person or on the operation of the pharmacy that apply after the lifting of the suspension or the reinstatement of the registration or licence.

Stay pending appeal

- 57. (1) If the discipline committee orders a suspension or cancellation of a pharmacy licence or the registration of a respondent, it may, in its order,
 - (a) specify whether or not the order is stayed on the commencement of an appeal to the Supreme Court under this Act until the Supreme Court makes a decision under section 59, and
 - (b) set terms and conditions with respect to the licence or the registration during the stay.
- (2) Despite section 59, no appeal lies from an order of the discipline committee staying or not staying the suspension or cancellation of a pharmacy licence or the registration of a respondent.

Consequence of conviction for an offence

- 58. If the discipline committee is satisfied that a registrant has been convicted of an offence under the laws of Canada or British Columbia relating to the practice of pharmacy, or of an indictable offence of any kind, the committee, having given the registrant reasonable notice and an opportunity to be heard respecting the fact of that conviction or the appropriate disciplinary action to be taken under section 54 (2), may proceed summarily to confirm the fact of that conviction and act under section 54 (2) as though it had made a determination under section 54 (1).

Appeal of discipline committee decision to Supreme Court

- 59. (1) The council or a person aggrieved or adversely affected by a determination or order of the discipline committee under section 54 may appeal the determination or order to the Supreme Court.
- (2) An appeal under this section must be commenced within 30 days after the date of the determination or order.

- (3) An appeal under this section must be an originating application commenced by filing a petition in any registry of the Supreme Court, and the Rules of Court for originating applications apply to the appeal but Rule 49 does not apply.
- (4) The petition, other than a petition by the council, commencing an appeal under this section must be served on the registrar within 14 days of its filing in the court registry.
- (5) The petition commencing an appeal under this section must be served on the parties to the discipline committee proceeding in which the determination or order being appealed was made and, if the matter relates to a complaint, on the complainant.
- (6) The persons required to be served under subsection (4) or (5) may be parties to an appeal under subsection (1).
- (7) On request by a party to an appeal under subsection (1) and on payment by the party of any disbursements and expenses in connection with the request, the registrar must provide that party with copies of part or all, as requested, of the record of the proceeding before the discipline committee.
- (8) An appeal under subsection (1)
 - (a) must be a new hearing if there is no transcript of the proceeding in which the determination or order being appealed was made, or
 - (b) must be a review of the transcript and proceeding if there is a transcript, unless the court is satisfied that a new hearing or the admission of new evidence is necessary in the interests of justice.
- (9) On the hearing of an appeal under this section, the court may
 - (a) confirm, vary or reverse the determination or order of the discipline committee,
 - (b) refer the matter back to the discipline committee, with or without directions, or
 - (c) make any other order it considers appropriate in the circumstances.
- (10) A decision of the Supreme Court on an appeal under subsection (1) may be appealed to the Court of Appeal if leave to appeal is granted by a justice of the Court of Appeal.

Practitioner or registrant must report suspected unfitness

60. If a practitioner or registrant has reason to suspect that a person registered under this Act is suffering from a physical or mental ailment or an excessive personal use of alcohol or drugs that might constitute a danger to the public, the practitioner or registrant must immediately report this to the registrar.

PART 7 - BYLAWS, RULES AND DRUG SCHEDULES

Council bylaws

61. (1) The council may make bylaws.
- (2) Without restricting subsection (1), the council may make bylaws respecting the following:
- (a) qualification, education, practical training and assessment required for registration;
 - (b) continuing education of pharmacists and payment of fees for it;
 - (c) requirements for renewal of registration of a registrant;
 - (d) establishment of categories and special practice areas of registrants;
 - (e) standards of practice and conduct to be adhered to by a registrant;
 - (f) collection, retention, maintenance, correction, protection, use and disclosure of prescription information and patient records including information and records intended for the purposes of PharmaNet;
 - (g) provision for information under section 27 (2) of the *Freedom of Information and Protection of Privacy Act*;
 - (h) requirements for maintenance of professional liability insurance coverage by registrants;
 - (i) the non-practising register;
 - (j) criteria which characterize devices, facilities, care centres and wholesalers;
 - (k) requirements for the licensing and operation of a pharmacy including, but not limited to
 - (i) use and supervision of support persons, including the ratio of pharmacists to support persons,
 - (ii) physical requirements for premises,

- (iii) maintenance and disposal of records, including patient records and records concerning drug inventory, purchases and transfers,
 - (iv) equipment and things to be used in the operation of a pharmacy, and
 - (v) name, signage and other forms of public identification of the pharmacy,
 - (l) requirements for the sale, storage or disposal of a drug or device listed or included by reference in the drug schedules;
 - (m) requirements for a therapeutic interchange program;
 - (n) responsibilities of managers of pharmacies, owners of pharmacies or of directors of corporations which own pharmacies;
 - (o) standards of pharmacy services provided to patients in a facility, hospital or care centre;
 - (p) procedural requirements for the operation of the board, the inquiry committee, the discipline committee and the PharmaNet committee;
 - (q) establishment of committees the council determines are necessary or advisable;
 - (r) requirements for lifting a suspension or reinstating a person's registration or a pharmacy licence;
 - (s) the form and content of a citation under section 49 or a subpoena under section 53 (6);
 - (t) standards of advertising;
 - (u) appointment of an auditor;
 - (v) scale and payment of fees, fines and the nature and amount of costs;
 - (w) establishment of a registry for the wholesalers of limited access drugs, including the information that a wholesaler must provide for registration and the manner and form of the registration procedure;
 - (x) payment of special fees levied under the bylaws.
- (3) A bylaw made by the council under subsection (2) (f) may include a requirement that a pharmacist, in relation to every prescription dispensed by that pharmacist, obtain and record on PharmaNet the patient record information specified in the bylaws.
- (4) Provisions in a bylaw made under subsection (2) may be different for registrants in different categories or in different specialty practice areas.
- (5) A bylaw does not come into force until approved by the Lieutenant Governor in Council.
- (6) The Lieutenant Governor in Council must not approve a bylaw under this section unless satisfied that appropriate provision has been made for
- (a) the election of registrants to the council under section 7 (1) (b), and
 - (b) each of the matters referred to in section 2 (3).

Council rules

62. (1) The council may make rules.
- (2) Without restricting subsection (1), the council may make rules respecting the following:
- (a) conduct of meetings and elections;
 - (b) election of pharmacists to the council, including the filling of vacancies;
 - (c) term of office, or removal from office, of persons elected to council;
 - (d) duties of the members of council, the executive committee and the chair of council;
 - (e) designation of the president and other officers of the council and of the members of the executive committee;
 - (f) filling of vacancies on the executive committee;
 - (g) reporting requirements for the executive committee;
 - (h) quorum for a meeting of the council or the executive committee;
 - (i) hiring and appointment of staff, including a registrar and inspectors, to conduct the business of the college, and to enforce the observance of this Act, the drug schedules, bylaws and rules;
 - (j) qualification, appointment and capacity of honorary members and former registrants who do not practise;
 - (k) form and content of registers under sections 11 to 15;
 - (l) payment of expenses incurred by college members on college business;
 - (m) forms and documents other than those specified in section 61 (2) (s) or (w);
 - (n) affiliation of the college with another organization;

- (o) appointment and removal of members of a committee described in section 61 (2) (q);
- (p) procedures to be followed by a committee described in section 61 (2) (q);
- (q) duties and powers of a committee described in section 61 (2) (q);
- (r) delegation of a duty or power of the council to a committee described in section 61 (2) (q);
- (s) delegation of a duty or power of a committee described in section 61 (2) (q) to panels of the committee;
- (t) general administration and operation of the college.

Lieutenant Governor in Council bylaws

63. (1) The minister may request the council to amend or repeal an existing bylaw or drug schedule or to make a new bylaw or drug schedule if the minister is satisfied that this is necessary or advisable.
- (2) If the council does not comply with a request under subsection (1) within 60 days after the date of the request, the Lieutenant Governor in Council may amend or repeal the existing bylaw or drug schedule or make the new bylaw or drug schedule in accordance with that request.
- (3) A bylaw or drug schedule may not be made, amended or repealed under this section unless notice of the proposed bylaw, drug schedule, amendment or repeal is published in the Gazette at least 90 days before that bylaw, drug schedule, amendment or repeal comes into force.

Power to make regulations

64. (1) The council may, by regulation, make drug schedules specifying the drugs or devices that may be sold and the terms and conditions of their sale.
- (2) A regulation under this section does not come into force until approved by the Lieutenant Governor in Council.

PART 8 - MEDICATED FEEDS AND VETERINARY DRUGS

Definitions

65. In sections 65 to 71:

“animal” means an animal, alive or dead, and includes all living organisms other than plants and humans;

“licensee” means a pharmacist, veterinarian or person licensed under section 67 who is authorized to manufacture or sell a medicated feed or sell a veterinary drug;

“medicated feed” means an animal feed that contains a veterinary drug;

“minister” includes a person designated in writing by the minister;

“regulation” means a regulation made under section 71;

“veterinary drug” means a drug used or intended or represented to be used as a drug for the treatment, prevention or diagnosis of a disease of an animal, and includes a drug listed or included by reference in the regulations;

“veterinary drug dispenser” means a person licensed under the regulations to dispense veterinary drugs.

Sale restricted

66. A person, other than a pharmacist, or a veterinarian registered under the *Veterinarians Act* entitled to engage in private practice, must not manufacture or sell medicated feeds or sell veterinary drugs unless that person has a valid licence issued under section 67 and the manufacture or sale complies with the regulations and the terms and conditions of the licence.

Licence

67. (1) On application in the prescribed form and payment of the prescribed fee by an applicant, the minister may issue, on terms the minister sets or the regulations prescribe, a licence enabling the applicant to manufacture or sell medicated feeds or sell veterinary drugs.

- (2) If the regulations require the presence of a veterinary drug dispenser on the premises of a licensee, the licensee must inform the Provincial chief veterinarian appointed under the *Animal Disease Control Act* of the name and licence number of the veterinary drug dispensers normally present on the licensee's premises during business hours.
- (3) If the minister determines that a person licensed under this section has contravened a term of the person's licence, the minister may cancel that licence.

Minister may appoint inspectors

68. (1) The minister may appoint inspectors who may
- (a) enter, during normal business hours, premises in which medicated feeds or veterinary drugs are sold to ascertain whether this Act and the regulations are being complied with,
 - (b) examine and seize books and records relating to the manufacture, use or sale of medicated feeds or veterinary drugs,
 - (c) if they believe on reasonable grounds that an agricultural or horticultural crop, product, animal, animal product, animal feed, medicated feed or veterinary drug contains a substance specified by the minister to be harmful to the health of persons or animals, enter any premises to inspect the thing suspected of containing the harmful substance and remove the thing or a sample of it,
 - (d) examine and remove medicated feeds or veterinary drugs from premises at which they are manufactured or sold, if they believe on reasonable grounds that sale of these medicated feeds or veterinary drugs is prohibited or that the stated expiry date for these medicated feeds or veterinary drugs has passed, and
 - (e) perform other duties imposed by the minister.
- (2) An inspector may retain anything removed under this section to be dealt with under section 69.

Control of harmful drugs

69. (1) If a thing removed under section 68 (1) (c) and analyzed contains a substance considered by the minister to be dangerous to the health of a person or animal, the minister may cause the thing to be destroyed, or prohibit its sale, manufacture or use for the time the minister considers necessary.
- (2) If a medicated feed or veterinary drug removed under section 68 cannot be lawfully sold by the person from whom it was removed, or if its expiry date has passed, the minister may direct that it be destroyed.
- (3) The minister and the government are not liable to pay compensation for an economic loss that may occur as a result of any action taken in good faith under this section.

Prohibition against use of veterinary drugs

70. Despite this Act or the regulations, the minister may prohibit the use in British Columbia of any veterinary drug for veterinary purposes.

Power to make regulations

71. (1) For the purposes of sections 65 to 70, the Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1) the Lieutenant Governor in Council may make regulations as follows:
- (a) issuing of licences and the fees for them under section 67;
 - (b) licence duration, renewal, cancellation, suspension, extent and production;
 - (c) keeping and inspection of registers of licences and veterinary drug dispensers and the payment of fees;
 - (d) qualification of applicants under section 67;
 - (e) storage, transportation and sale of veterinary drugs;
 - (f) analysis of a thing listed in section 68 (1) (c);
 - (g) maximum residue content of a veterinary drug in a thing subject to analysis under section 68 (1) (c);
 - (h) drugs listed or included by reference in the drug schedules and their amounts that may be used either to impregnate feeding mashes to prevent, control or treat animal diseases or to prevent, control or treat specific animal diseases;
 - (i) training courses, training and licensing for veterinary drug dispensers;

- (j) the presence of a veterinary drug dispenser if veterinary drugs or medicated feeds are sold;
- (k) an advisory committee on veterinary drugs, and its duties, with representatives from the Ministry of Agriculture, Fisheries and Food, the Ministry of Health, the college and the British Columbia Veterinary Medical Association.

PART 9 - GENERAL

Misrepresentation of drug

72. A person must not sell or represent something for sale as a drug or as a particular drug if it is not what it is represented to be.

Expiry date

73. A person must not sell a drug after a date on which the drug is indicated or labelled to expire.

Recovery of payment

74. A person who sells anything in contravention of this Act, the bylaws, the drug schedules or regulations is not entitled to recover payment for the sale.

Exceptions

75. Nothing in this Act, the drug schedules, the regulations, the bylaws or the rules prevents
- (a) a practitioner from directly dispensing a drug to the practitioner's patient or, in the case of a veterinary drug, to the owner, or an agent of the owner, of an animal for which the drug has been prescribed,
 - (b) a person on the Faculty of Pharmaceutical Sciences at the University of British Columbia from providing instruction in the practice of pharmacy,
 - (c) a person holding a teaching appointment at a college or Provincial institute designated under the *College and Institute Act* from providing instruction to a person who will become a support person,
 - (d) a person enrolled in a pharmacy program in the Faculty of Graduate Studies at the University of British Columbia from engaging in clinical training in a pharmacy under the supervision of a member of the Faculty of Pharmaceutical Sciences at the University of British Columbia,
 - (e) the manufacture or sale of a proprietary medicine defined by regulation under the *Food and Drugs Act* (Canada) if the sale of this medicine does not contravene the drug schedules under this Act, or
 - (f) a wholesaler or a manufacturer from selling
 - (i) a drug which is not a veterinary drug as defined in section 65 or a limited access drug to any person,
 - (ii) a limited access drug to a pharmacist in accordance with this Act and the bylaws,
 - (iii) a limited access drug to a practitioner, another wholesaler or manufacturer or to a government or university for research and testing, or
 - (iv) a veterinary drug to a veterinarian registered under the *Veterinarians Act* or to a person licensed under section 67 to manufacture or sell the veterinary drug.

Sale by wholesalers and manufacturers

76. Wholesalers and manufacturers of limited access drugs must maintain a record of all sales of those drugs and allow an inspector to inspect the record or inventory of those drugs at any time during normal business hours without the requirement of a court order.

Wholesaler registration

77. Wholesalers of limited access drugs must register with the college in the manner specified in the bylaws.

Offences and penalties

78. (1) Section 5 of the *Offence Act* does not apply to this Act.
- (2) A person who contravenes section 19, 21, 25 (1), 27, 29, 36, 39 (1), (6) or (7), 43, 66 or 73 commits an offence.
 - (3) If a person contravenes this Act, the drug schedules, the regulations or the bylaws in the course of employment, the employer or manager of the person is deemed to have contravened the same enactment.

- (4) If a corporation commits an offence under this Act, an officer, director, employee or agent of the corporation who directed, authorized, assented to, acquiesced or participated in the commission of the offence is deemed to have contravened the same enactment.
- (5) In any prosecution under this Act, it is sufficient to prove that the accused has done or committed a single act of unauthorized practice or has committed on one occasion any of the acts prohibited by this Act.

Onus on pharmacist to prove registration

79. (1) If the matter is in issue in a prosecution under section 78, the onus is on a defendant to prove that the defendant is a pharmacist or is the pharmacist named in the pharmacy licence.
- (2) The production of proof of registration or a pharmacy licence purporting to be issued under this Act is proof of its authenticity in the absence of evidence to the contrary.

Onus on defendant

80. If evidence is introduced in a prosecution under this Act that a sign, title, advertisement or word has been published or used contrary to this Act, the regulations or the bylaws, the onus is on a defendant to prove that it was not published or used by the defendant.

Immunities

81. (1) No action for damages because of anything done or omitted to be done in good faith
 - (a) in the performance or intended performance of any duty, or
 - (b) in the exercise or intended exercise of any power,on behalf of the college under this Act, the drug schedules, the bylaws or the rules may be brought against a member of a committee of the college, a member, officer or employee of the college, a council or committee member or an inspector.
- (2) Subsection (1) does not absolve the college from vicarious liability for an act or omission for which the college would be vicariously liable if this section were not in force.

Certificate of analysis

82. (1) A certificate of an analysis from an analyst appointed under the *Food and Drugs Act* (Canada) stating that the analyst has analyzed or examined a substance and stating the result of this analysis or examination is admissible in evidence in a proceeding under this Act, and is evidence of the statements contained in the certificate.
- (2) The person against whom a certificate is admitted may, with leave of the court or chair of the proceeding, require the attendance of the analyst for purposes of cross examination.
- (3) Reasonable notice of an intention to introduce a certificate in evidence must be given to the person against whom it is to be used, along with a copy of the certificate.

Exemption

83. The Lieutenant Governor in Council may, by order, exempt one or more of the following from any or all of the provisions of this Act or the bylaws:
 - (a) a health unit established under the *Health Act*;
 - (b) a Provincial mental health facility under the *Mental Health Act*;
 - (c) a community care facility holding a licence or interim permit under the *Community Care Facility Act*;
 - (d) a place from which drugs are distributed under the *Veneral Disease Act*.

Access to PharmaNet Patient Record Information Regulation

Pursuant to Section 38.1 of *The Pharmacists, Pharmacy Operations and Drug Scheduling Act*

Definitions

1. In this regulation:
 - “access” means access to patient record information on the PharmaNet system for the purpose of providing therapeutic treatment or care to patients;
 - “hospital” means a hospital as defined in paragraph (a) of the definition of “hospital” in section 1 of the *Hospital Act* that is designated under paragraph (a) of the definition of “hospital” in section 1 of the *Hospital Insurance Act*;
 - “medical practice” means any premises where a medical practitioner ordinarily practices medicine;
 - “pilot project” means a study and evaluation, administered by the Ministry of Health, of access from medical practices.

Designated persons

2. Subject to section 3, the following persons are permitted to have access:
 - (a) a medical practitioner;
 - (b) a licensed practical nurse who is a registrant of the College of Licensed Practical Nurses of British Columbia and in good standing with the College;
 - (c) a registered nurse who is a member of the Registered Nurses’ Association of British Columbia and in good standing with the Association;
 - (d) a registered psychiatric nurse who is a registrant of the College of Registered Psychiatric Nurses of British Columbia and in good standing with the College;
 - (e) a person authorized by a medical practitioner to have access
 - (i) under the direct supervision of the medical practitioner, and
 - (ii) in the course of carrying out the person’s employment or other duties in a hospital emergency department or a medical practice.

Requirements, restrictions and conditions for access

3. A person designated in section 2 is only permitted to have access
 - (a) if the purpose and manner of access is consistent with the standards set out in the HealthNet/BC Application Services Professional and Software Compliance Standards published by the Ministry of Health, and
 - (b) from
 - (i) a hospital emergency department, or
 - (ii) a medical practice that is included in the pilot project.