

PHARMACY OPERATIONS AND DRUG SCHEDULING ACT

[SBC 2003] CHAPTER 77

Definitions

1 In this Act:

“**application committee**” means an application committee established for the purposes of this Act under section 19 (1) (t) of the *Health Professions Act*;

“**board**” means the board established under section 17 (1) of the *Health Professions Act* for the health profession of the practice of pharmacy;

“**bylaw**” means a bylaw made under section 21 or 23;

“**care centre**” means a centre where patients or clients receive care involving drugs or devices;

“**college**” means the college continued under section 15.1 (4) of the *Health Professions Act* for the health profession of the practice of pharmacy;

“**criminal record history**” means a criminal record history under section 5.1;

“**device**” means 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,

provided the article, instrument or apparatus meets the criteria listed in the bylaws;

“**direct owner**” means the owner of a pharmacy, other than an indirect owner;

“**discipline committee**” means the discipline committee as defined in section 1 of the *Health Professions Act* for the college;

“**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;

“drug schedules” means drug schedules made under section 22;

“facility” means

(a) a community care facility holding a licence under the *Community Care and Assisted Living Act* that provides residential care to adults,

(b) a registered assisted living residence under the *Community Care and Assisted Living 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;

“indirect owner”, in relation to a pharmacy, means,

(a) in respect of a corporation that is traded publicly, the officers and directors of the corporation, and

(b) in respect of a corporation that is not traded publicly,

(i) the officers, directors and shareholders of the corporation, and

(ii) if a subsidiary corporation, the officers, directors and shareholders of the parent corporation;

“information or billing contravention” has the same meaning as under the *Pharmaceutical Services Act*;

“inquiry committee” means the inquiry committee as defined in section 1 of the *Health Professions Act* for the college;

“inspector” means an inspector as defined in section 1 of the *Health Professions Act* for the college;

“limited access drug” means a drug that 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;

“personal health information” means recorded information about an identifiable individual that is related to the individual's health or the provision of health services to the individual;

“personal representative” means a person having authority under the common law or an enactment to make personal and health care decisions in respect of another person;

“pharmacist” means a pharmacist as defined in section 25.8 of the *Health Professions Act*;

“pharmacy” means the area of a premises licensed under this Act, or in respect of which a direct owner seeks to have a pharmacy licence issued, renewed or reinstated, where drugs or devices may be

(a) stored, or

(b) dispensed or sold to the public;

“pharmacy licence” means a pharmacy licence issued, renewed or reinstated under section 4;

“practice of pharmacy” means the practice of pharmacy as defined in section 25.8 of the *Health Professions Act*;

“practitioner” means a person

(a) who is authorized to practise medicine, dentistry, podiatry or veterinary medicine, or

(b) who is

(i) in a class of persons prescribed by the minister for the purpose of this definition, and

(ii) authorized under the *Health Professions Act* to prescribe drugs or devices in the course of providing the services of a designated health profession as defined in section 1 of that Act;

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

“registrant” means a pharmacist and, in Part 3, includes a person formerly registered as a member of the college under section 20 of the *Health Professions Act*;

“registrar” means the registrar as defined in section 1 of the *Health Professions Act* for the college;

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

“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;

“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 made under section 71 of the *Veterinary Drugs Act*;

“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 — Pharmacy Licensing and Operation

Application for pharmacy licence

- 2 (1) A direct owner may apply
- (a) for a new pharmacy licence,
 - (b) to renew a pharmacy licence, if the application is made and the applicable fee paid on or before the due date specified in the bylaws, and
 - (c) to reinstate a pharmacy licence that has been expired for 90 days or less.
- (2) A direct owner may apply for a new pharmacy licence or to renew or reinstate the direct owner’s pharmacy licence by submitting to the registrar all of the following:
- (a) an application made in accordance with the bylaws;
 - (b) a criminal record history as required under section 5.1 (a);
 - (c) the applicable fee specified in the bylaws;
 - (d) in the case of an application
 - (i) for a new pharmacy licence, proof satisfactory to the registrar that the direct owner is eligible, under section 3, to hold a pharmacy licence, or
 - (ii) to renew or reinstate a pharmacy licence, an attestation, in a form acceptable to the registrar, that the direct owner
 - (A) continues to be eligible, under section 3, to hold a pharmacy licence, and

- (B) has, throughout the term of the pharmacy licence to be renewed or reinstated, complied with all duties of a direct owner imposed under this Act and under the *Health Professions Act*.

Eligibility for pharmacy licence

- 3 A direct owner is eligible to hold a pharmacy licence if all of the following apply:
- (a) the ownership of the pharmacy complies with section 5 and the bylaws;
 - (b) no direct owner, indirect owner or manager is subject to a limitation imposed by the discipline committee that precludes him or her from being a direct owner, an indirect owner or a manager;
 - (c) the manager is a pharmacist, and that pharmacist will have responsibility for the actual management and operation of the pharmacy;
 - (d) no direct owner, indirect owner or manager is or has been the subject of an order or a conviction for an information or billing contravention;
 - (e) no direct owner, indirect owner or manager has, within the previous 6 years, been convicted of an offence prescribed under the *Pharmaceutical Services Act* for the purposes of section 45 (1) (a) (ii) of that Act;
 - (f) no direct owner, indirect owner or manager has, within the previous 6 years, been convicted of an offence under the *Criminal Code* (Canada), other than an offence to which paragraph (e) applies;
 - (g) no direct owner, indirect owner or manager has, within the previous 6 years, had a judgment entered against him or her in a court proceeding related to commercial or business activities that occurred in relation to the provision of
 - (i) drugs or devices, or
 - (ii) substances or related services within the meaning of the *Pharmaceutical Services Act*;
 - (h) no direct owner, indirect owner or manager has, within the previous 6 years, had his or her registration with one of the following bodies suspended or cancelled:
 - (i) the College of Pharmacists of British Columbia;
 - (ii) a body, in another province or in a foreign jurisdiction, that regulates the practice of pharmacy in that other province or foreign jurisdiction;
 - (i) no direct owner, indirect owner or manager has, within the previous 6 years, had limits or conditions imposed on his or her practice of pharmacy as a result of disciplinary action taken by a body referred to in paragraph (h).

Determination respecting pharmacy licence

- 4 (1) On receipt of an application for a pharmacy licence and the applicable fee, the registrar must issue, renew or reinstate the pharmacy licence, without conditions, if satisfied of both of the following:

- (a) that the application is complete and has no false or misleading information;
 - (b) that the direct owner is eligible, under section 3, to hold a pharmacy licence.
- (2) If the registrar is not satisfied of the matters referred to in subsection (1), the registrar must refer the application to the application committee.
- (3) On receiving a referral under subsection (2), the application committee may do one or more of the following:
- (a) request additional information or evidence from the direct owner, an indirect owner and the proposed manager;
 - (b) take an action described in subsection (4);
 - (c) refuse to issue, renew or reinstate the pharmacy licence.
- (4) If satisfied that an application referred under subsection (2) is complete and has no false or misleading information, the application committee may issue, renew or reinstate the pharmacy licence as follows:
- (a) with conditions, if the application committee is satisfied that the direct owner is eligible, under section 3, to hold a pharmacy licence if
 - (i) conditions are attached to the pharmacy licence, or
 - (ii) existing conditions are varied;
 - (b) despite section 3, with or without conditions, if the direct owner is not eligible under section 3 (f), (g), (h) or (i) to hold a pharmacy licence but the application committee is satisfied that
 - (i) the conviction referred to in section 3 (f) was for an offence that is not relevant to the provision of drugs or devices or to the operation of a pharmacy, or
 - (ii) the circumstances resulting in the judgment referred to in section 3 (g), the suspension or cancellation referred to in section 3 (h) or the disciplinary action referred to in section 3 (i) are such that there is minimal risk to the public if the pharmacy licence is issued, renewed or reinstated.
- (5) The application committee may delegate to the registrar one or more of its powers under this section, but a delegation does not prevent the application committee from exercising the delegated power at any time.

If pharmacy licence issued

- 4.1** (1) If the registrar or the application committee issues, renews or reinstates a pharmacy licence, the licence must include all of the following:
- (a) the name and address of the pharmacy;
 - (b) the name of the direct owner;
 - (c) the name of the manager.

- (2) A direct owner and a manager must display a pharmacy licence in the pharmacy in a place conspicuous to the public.
- (3) Unless a pharmacy licence will expire in less than 30 days, a direct owner must give to the registrar 30 days' written notice of any changes respecting the name or layout of the pharmacy.
- (4) On receipt of notification of a change of name under subsection (3) and the fee specified by the bylaws, the registrar must amend the licence to reflect the new name.
- (5) A pharmacy licence is valid for 12 months.
- (6) If a direct owner fails to renew a pharmacy licence in accordance with section 2, the licence becomes invalid on its expiry date.

Pharmacy ownership

5 (1) Except as permitted under the regulations, a person authorized by an enactment to prescribe drugs must not be a direct owner or an indirect owner.

- (2) A pharmacy must have, as its direct owner,
 - (a) a pharmacist or a partnership of pharmacists,
 - (b) a corporation incorporated under the *Company Act* or the *Business Corporations Act* in which the majority of the directors in the corporation are pharmacists,
 - (c) a partnership of corporations in which each corporation is incorporated under the *Company Act* or the *Business Corporations Act* and a majority of the 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*,
 - (g.1) the Thompson Rivers University,
 - (h) the City of Vancouver or a municipality, or
 - (i) the government.

Criminal record history required

5.1 A direct owner, an indirect owner and a manager must provide to the registrar the information specified in the bylaws respecting the direct owner's, indirect owner's and manager's history of charges and convictions as follows:

- (a) on the making of an application for a new pharmacy licence;
- (b) if requested by the application committee, the discipline committee or the inquiry committee, within the time requested;
- (c) if the direct owner ceases to be eligible, under section 3 (e) or (f), to hold a pharmacy licence, within 20 days of ceasing to be eligible;
- (d) 5 years from the date that the information was last provided under this section.

Change of management or ownership

6 (1) A pharmacy licence is cancelled if

- (a) a manager ceases to manage the pharmacy,
- (b) the location of the pharmacy changes, or
- (c) subject to subsection (2), the direct owner of the pharmacy changes.

(2) If the direct owner of a pharmacy becomes bankrupt or 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 direct 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 board 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.

Unlawful operation

- 7** (1) Unless authorized under a bylaw or by a pharmacy licence, a person must not own, operate or manage the area of a premises where drugs or devices are
- (a) stored, or
 - (b) dispensed or sold to the public.
- (2) A person must not own, operate or manage a pharmacy except in accordance with a pharmacy licence.
- (3) Unless authorized under a bylaw or by a pharmacy licence a direct owner, an indirect owner and a manager must not operate or permit the operation of a pharmacy if the direct owner ceases to be eligible, under section 3, to hold a pharmacy licence.

- (4) A person must not 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 this Act.

Compliance

- 7.1** (1) A direct owner, an indirect owner and a manager must comply with all applicable duties imposed under this Act and under the *Health Professions Act*.
- (2) A direct owner and an indirect owner must give written notice to the registrar, within the prescribed period, of the following:
- (a) if an event described in section 6 (1) (a) or (b) occurs;
 - (b) if the direct owner or an indirect owner of the pharmacy changes;
 - (c) if the direct owner ceases to be eligible, under section 3, to hold a pharmacy licence.
- (3) A manager must give written notice to the registrar, within the prescribed period, if the direct owner of the pharmacy being managed by the manager ceases to be eligible, under section 3, to hold a pharmacy licence.

Part 2 — Prohibitions and Duties

Injunctive relief

8 The Supreme Court, on application of the board 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, may grant an injunction restraining a person from committing the contravention and, pending disposition of the action seeking the injunction, the court may grant an interim injunction.

Sale or disposal of drugs and devices

9 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.

Presence of drugs or devices on business premises

10 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

11 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.

Confidentiality

12 (1) [Repealed 2012-22-102.]

(2) Despite the *Personal Information Protection Act*, a person who obtains information, files or records under this Act must not use them, or disclose them to any other person, except

(a) as permitted under this Act, or

(b) for the purposes of

(i) court proceedings, or

(ii) enabling the college, or a person or committee acting for the college, to carry out their powers, duties or functions under this Act or the bylaws.

(3) Subsection (2) does not apply to a person in respect of his or her own personal health information, or to the person's personal representative when acting in the course of his or her duties.

Repealed

13 [Repealed 2012-22-102.]

Repealed

13.1 [Repealed 2012-22-102.]

Repealed

14-16 [Repealed 2012-22-102.]

Repealed

16.1 [Repealed 2012-22-102.]

Part 3 — Pharmacy Licence Inspections, Suspensions and Cancellations

Powers of an inspector

17 (1) In addition to the powers of an inspector under the *Health Professions Act*, an inspector may at any reasonable time, without a court order, do one or more of the following:

(a) inspect the premises in which, and equipment and materials with which, a 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 makes reimbursement for the cost of prescribed drugs, devices or 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 from a pharmacy, hospital, facility or care centre a prescription file, drug, drug container, device, patient record or other record for a period of no longer than 3 months 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 from a pharmacy, hospital, facility or care centre a sample of a drug or other thing 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 whose 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

18 An inspector must make a written report to the registrar, inquiry committee or discipline committee of an action under section 17 performed at the request of the registrar, inquiry committee or discipline committee.

Obstruction of an inspector

19 A person must not mislead, obstruct, harass or physically or verbally abuse the registrar or an inspector who is lawfully performing duties or exercising powers under this Act.

Inquiry and disciplinary actions

20 (1) Sections 32 to 40 of the *Health Professions Act* apply to

- (a) a direct owner or an indirect owner as if the direct owner or indirect owner were a registrant, and
- (b) a pharmacy licence as if it were the registration of a registrant.

(2) Sections 29, 30 and 31 (2) of the *Health Professions Act* apply for the purpose of an investigation, extraordinary action or discipline committee hearing undertaken under subsection (1).

(2.1) For the purpose of subsection (1), a reference in sections 32 to 40 of the *Health Professions Act* to

(a) “under this Act” is deemed to read “under the *Pharmacy Operations and Drug Scheduling Act* or under this Act”, and

(b) “this Act, a regulation or a bylaw” is deemed to read “the *Pharmacy Operations and Drug Scheduling Act*, this Act, or the regulations or bylaws made under either the *Pharmacy Operations and Drug Scheduling Act* or this Act”.

(3) For the purpose of subsection (1), a pharmacy licence may be suspended or cancelled or other appropriate action taken if

(a) the operation of the pharmacy is not in compliance with

(i) this Act,

(ii) the *Health Professions Act*,

(iii) the regulations or bylaws made under either this Act or the *Health Professions Act*, or

(iv) the conditions of the pharmacy licence, or

(b) the direct owner ceases to be eligible, under section 3, to hold a pharmacy licence.

(4) For the purpose of subsection (1), the measures that the discipline committee may take under section 39 of the *Health Professions Act* include

(a) prohibiting a person from being a direct owner or an indirect owner, or

(b) setting limits for a specified period on the activities a person can carry out as a direct owner or an indirect owner.

Part 4 — Bylaws and Drug Schedules

Board bylaws

21 (1) The board may make bylaws respecting the following:

(a) the collection, retention, maintenance, correction, protection, use and disclosure of prescription information and patient records including information and records intended for the purpose of prescribed information management technology under the *Pharmaceutical Services Act*;

- (b) the provision for information to comply with section 27 (2) of the *Freedom of Information and Protection of Privacy Act*;
- (c) the criteria that characterize devices, facilities, care centres and wholesalers;
- (c.1) the information and fees that must be provided for the purpose of making an application to issue, renew or reinstate a pharmacy licence, including specifying different requirements and fees for different purposes;
- (d) the requirements for the licensing and operation of a pharmacy, including, but not limited to,
 - (i) the use and supervision of support persons, including the ratio of pharmacists to support persons,
 - (ii) the physical requirements for premises, including with respect to the location within a premises to be occupied by a pharmacy, and a pharmacy's, layout and floor plans,
 - (iii) the maintenance and disposal of records, including patient records and records concerning drug inventory, purchases and transfers,
 - (iv) the equipment and things to be used in the operation of a pharmacy, and
 - (v) the name, signage and other forms of public identification of the pharmacy;
- (d.1) the information that must be provided for the purpose of a criminal record history, including
 - (i) making requirements respecting the source or verification of the information, and
 - (ii) making different requirements depending on the purpose for which the information is required under this Act;
- (d.2) the requirements respecting the form and manner in which
 - (i) information required under this Act must be provided,
 - (ii) an application under this Act may be made, or
 - (iii) a notice under this Act may be given;
- (e) the requirements for the dispensing, sale, storage or disposal of a drug or device listed or included by reference in the drug schedules;
- (f) the requirements for a therapeutic interchange program;
- (g) the duties of direct owners, indirect owners and managers;
- (h) [Repealed 2006-23-36.]

- (i) the standards of advertising;
- (j) the 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;
- (k) the establishment of a protocol described in section 25.93 (4) of the *Health Professions Act*.

(1.1) The board may delegate to the registrar the power to establish forms for the purposes of this Act.

(2) A bylaw made by the board under subsection (1) (a) may include a requirement that a pharmacist, in relation to every prescription dispensed by that pharmacist, obtain and record in prescribed information management technology under the *Pharmaceutical Services Act* the personal health information specified in the bylaws.

(3) Provisions in a bylaw made under subsection (1) may be different for registrants in different categories or in different specialty practice areas.

(4) A bylaw under subsection (1) has no effect unless it is filed with the minister.

(5) A bylaw under subsection (1) comes into force on the date that falls on the day that is the number of days, prescribed by the minister, after the date of filing with the minister unless

- (a) the minister disallows the bylaw under subsection (6) (a),
- (b) the minister declares, under subsection (6) (b), that the bylaw comes into force on an earlier date, or
- (c) the board withdraws the bylaw under subsection (7).

(6) If the minister considers it necessary or advisable to do so, the minister may, by order, within the period prescribed for the purposes of subsection (5)

- (a) disallow the bylaw or a portion of the bylaw, or
- (b) declare that the bylaw or a portion of the bylaw comes into force on a specified date that is earlier than the date it would otherwise come into force under that subsection.

(7) The board may, by written notice delivered to the minister, withdraw a bylaw or a portion of a bylaw filed under subsection (4) at any time before it would otherwise come into force or before it is disallowed.

(8) A bylaw under subsection (1) may not be made, amended or repealed unless

- (a) notice of the proposed bylaw, amendment or repeal is given by the board to the minister

- (i) at least 90 days before the proposed bylaw, amendment or repeal is filed with the minister, or
 - (ii) within a shorter period that the minister specifies as appropriate in the circumstances, and
 - (b) the proposed bylaw, amendment or repeal is, for the period referred to in paragraph (a) of this subsection,
 - (i) made available by the board for inspection by any person, free of charge, at the office of the college at all reasonable times during regular business hours, and
 - (ii) posted by the board on the college website.
- (9) The board must
- (a) maintain a complete and accurate record of the bylaws that are in effect under subsection (1) and provide a copy of those bylaws to each direct owner and manager,
 - (b) make those bylaws available for inspection by any person, free of charge, at the office of the college at all reasonable times during regular business hours, and
 - (c) post those bylaws on the college website.

Regulations of the board

- 22** (1) Subject to the *Food and Drugs Act* (Canada), the board, by regulation, may make drug schedules specifying the terms and conditions of sale for drugs and devices.
- (2) A regulation under subsection (1) must be filed with the minister.
- (2.1) If the minister considers it necessary or advisable to do so, the minister may, by order, disallow the regulation or a portion of the regulation within the number of days, prescribed by the minister, after the date of filing under subsection (2).
- (2.2) The board may, by written notice delivered to the minister, withdraw a regulation or a portion of the regulation filed under subsection (1) at any time before it is disallowed.
- (2.3) The board may not deposit a regulation with the registrar under the *Regulations Act* until the earlier of the expiry of the prescribed number of days referred to in subsection (2.1) or a date specified by order of the minister.
- (2.4) A regulation or a portion of a regulation that is disallowed by the minister under subsection (2.1) must not be deposited with the registrar under the *Regulations Act*.
- (3) A regulation under this section may adopt by reference, in whole or in part and with any changes the board considers necessary, any code, schedule, specification, standard, rule or similar record issued or approved by the government of Canada, by the

government of a province or by a body approved by the board for the purpose of this section.

(4) A code, schedule, specification, standard, rule or similar record adopted under subsection (3) may be adopted as amended from time to time.

(5) The college must make available to any person for inspection at the college's offices during normal business hours, and electronically on a website, a current copy of regulations made under this section and codes, schedules, specifications, standards, rules or similar records adopted by reference under this section.

Minister's bylaws

23 (1) The minister may request the board 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 board does not comply with a request under subsection (1) within 60 days after the date of the request, the minister 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

(a) by the minister on a website maintained for purposes of this section, and

(b) for a period that is the lesser of

(i) 90 days, and

(ii) a period less than 90 days specified by the minister

before the bylaw or drug schedule is made, amended or repealed.

(4) Despite subsections (1) to (3), the minister may amend or repeal a drug schedule or make a new drug schedule without notice to the board or prior publication if the minister considers that this is necessary to protect the health or safety of the public.

Part 5 -- General

Misrepresentation of drug

24 Subject to section 25.93 (4) of the *Health Professions Act*, 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.

Recovery of payment

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

Exceptions

26 Nothing in this Act, the drug schedules, the regulations or the bylaws prevents

(a) a practitioner from directly dispensing a drug to the practitioner's patient or to the owner, or an agent of the owner, of an animal for which the drug has been prescribed, or

(b) a wholesaler or a manufacturer from selling

(i) a drug that is not a veterinary drug or a limited access drug to a 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 an individual who is authorized under the *Veterinarians Act* to practise veterinary medicine or to a person licensed under section 67 of the *Veterinary Drugs Act* to manufacture or sell the veterinary drug.

Sale by wholesalers and manufacturers

27 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

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

Offences and penalties

29 (1) Section 5 of the *Offence Act* does not apply to this Act.

(2) A person who contravenes section 5 (1), 7, 9, 12, 19 or 24 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, a director, an employee or an 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.

(6) [Repealed 2012-22-104(c)]

(7) In a prosecution for an offence under this section, it is a defence for the person charged to prove that the person exercised due diligence to avoid the commission of the offence.

Onus on pharmacist to prove registration

30 (1) If the matter is in issue in a prosecution under section 29, 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

31 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.

Certificate of analysis

32 (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 require, with leave of the court or chair of the proceeding, 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.

Protection against lawsuits

33 (1) Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against an employee or officer of the college, or any other individual acting on behalf of the college or under the direction of the board, because of anything done or omitted

- (a) in the performance or intended performance of any duty under this Act,
 - (b) in the exercise or intended exercise of any power under this Act,
- (2) Subsection (1) does not apply to a person referred to in that subsection in relation to anything done or omitted in bad faith.
- (3) Subsection (1) does not absolve the college from vicarious liability arising out of anything done or omitted by a person referred to in that subsection for which the college would be vicariously liable if this section were not in force.

Exemption

34 The Lieutenant Governor in Council, by order, may exempt one or more of the following from any or all of the provisions of this Act or the bylaws:

- (a) [Repealed 2008-28-154.]
- (b) a Provincial mental health facility under the *Mental Health Act*;
- (c) a community care facility holding
 - (i) a licence or interim permit under the *Community Care Facility Act*, or
 - (ii) a licence under the *Community Care and Assisted Living Act*;
- (d) a registered assisted living residence under the *Community Care and Assisted Living Act*;
- (e) a place from which drugs are distributed under the *Public Health Act*.

Regulations

34.1 The minister may make regulations as follows:

- (a) prescribing a class or classes of persons for the purpose of the definition of “practitioner” in section 1;
- (b) prescribing the number of days for the purposes of sections 21 (5) and 22 (2.1).
- (c) for the purposes of section 5 (1),
 - (i) prescribing classes of persons who are permitted to be direct owners or indirect owners, and
 - (ii) respecting circumstances in which persons are permitted to be direct owners or indirect owners;
- (d) prescribing periods for the purposes of section 7.1.

Unofficial Version

Commencement

67 This Act comes into force by regulation of the Lieutenant Governor in Council.

**PHARMACY OPERATIONS AND DRUG SCHEDULING
AMENDMENT ACT, 2016**

Transitional Provision

Transition – pharmacy licence applications

- 10** If an application for a pharmacy licence has been received under any of sections 2 to 4 of the *Pharmacy Operations and Drug Scheduling Act* as those sections read immediately before their repeal by this Act, but no decision respecting whether to issue, renew or reinstate the pharmacy licence has been made before this section comes into force,
- (a) an application made by a manager is deemed to have been made by a direct owner,
 - (b) sections 2 to 5.1 of the *Pharmacy Operations and Drug Scheduling Act*, as enacted or amended by this Act, apply to the application, and
 - (c) a decision respecting whether to issue, renew or reinstate the pharmacy licence must not be made until the direct owner complies with all applicable requirements under sections 2 to 5.1 of the *Pharmacy Operations and Drug Scheduling Act*, as enacted or amended by this Act.

Commencement

- 12** This Act comes into force by regulation of the Lieutenant Governor in Council.