1973

c 126 The Pharmacy Amendment Act, 1973

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CHAPTER 126

An Act to amend The Pharmacy Act

Assented to November 29th, 1973
Session Prorogued March 5th, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 22 of The Pharmacy Act, being chapter s.22 (1), of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

(1) There is payable to the registrar for the use of the College on such date in each year as is fixed by by-law such annual fees as the regulations prescribe,

(a) by every pharmaceutical chemist under sixty-five years of age;

(b) by every pharmaceutical chemist sixty-five years of age or over; and

(c) for each pharmacy, by the person or corporation that operates the pharmacy.

2. Section 26 of the said Act is amended by adding thereto the following clause:

(i) providing for a program of continuing education of pharmaceutical chemists to maintain the standard of competence of pharmaceutical chemists and requiring pharmaceutical chemists to participate in such continuing education.

3. Section 31 of the said Act is repealed and the following substituted therefor:

31.—(1) The Council, subject to the approval of the Lieutenant Governor in Council, may make regulations prescribing standards for the accreditation of pharmacies including standards for the maintenance, operation, space, equipment and facilities of pharmacies.
(2) No person shall establish or operate a pharmacy unless a certificate of accreditation has been issued in respect thereof.

(3) The registrar shall issue a certificate of accreditation and renewals thereof to any applicant thereof where the applicant and the pharmacy and its proposed operation qualify under this Act and the regulations.

(4) Subsection 2 does not apply to a pharmacy being operated on the day section 3 of The Pharmacy Amendment Act, 1973 comes into force until the expiration of three months thereafter.

31a.—(1) Where the registrar proposes to refuse to issue or renew an accreditation certificate, he shall serve notice of his proposal, together with written reasons therefore, on the applicant.

(2) A notice under subsection 1 shall inform the applicant that he is entitled to a hearing by the Infringement Committee established under the by-laws of the College if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the registrar and the Committee and he may so require such a hearing.

(3) Where an applicant does not require a hearing by the Infringement Committee in accordance with subsection 2, the registrar may carry out the proposal stated in his notice under subsection 1.

(4) Where an applicant requires a hearing by the Infringement Committee in accordance with subsection 2, the Committee shall appoint a time for and hold the hearing and, on the application of the registrar at the hearing, may by order direct the registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Committee considers the registrar ought to take in accordance with this Act and the regulations, and for such purposes the Committee may substitute its opinion for that of the registrar.

(5) The Infringement Committee may extend the time for the giving of notice requiring a hearing by an applicant under this section either before or after expiration of such time where it is satisfied that there are prima facie grounds for granting relief to the applicant pursuant to a hearing and that there are reasonable grounds for applying for the extension and the Committee may give such
directions as it considers proper consequent upon the extension.

(6) Where, within the time prescribed therefor or, if no time is prescribed, before the expiry of his accreditation certificate, a person has applied for the renewal of the accreditation certificate and paid the prescribed fee, the accreditation certificate shall be deemed to continue,

(a) until the renewal is granted; or

(b) where he is served with notice that the registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Infringement Committee has expired and, where a hearing is required, until the Committee has made its decision.

31b.—(1) The registrar, the applicant who has required the hearing and such other persons as the Infringement Committee may specify are parties to proceedings before the Committee under this Act.

(2) Notice of a hearing under section 31a shall afford the applicant a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or renewal of the accreditation certificate.

(3) An applicant who is a party to proceedings under subsection 1 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

(4) Members of the Infringement Committee holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Committee may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

(5) The oral evidence taken before the Infringement Committee at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
(6) The findings of fact of the Infringement Committee pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of The Statutory Powers Procedure Act, 1971.

(7) No member of the Infringement Committee shall participate in a decision of the Committee pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Committee shall be given unless all members so present participate in the decision.

(8) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him by the Committee within a reasonable time after the matter in issue has been finally determined.

31c.—(1) Any party to the proceedings before the Infringement Committee may appeal from its decision or order to the Supreme Court in accordance with the rules of court.

(2) Where any party appeals from a decision or order of the Infringement Committee, the Committee shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Committee's record, shall constitute the record in the appeal.

(3) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the Infringement Committee and may exercise all powers of the Committee to direct the registrar to take any action which the Committee may direct him to take and as the court considers proper and for such purposes the court may substitute its opinion for that of the registrar or of the Committee, or the court may refer the matter back to the Committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

31d. Except where otherwise provided, any notice required by this Act to be served may be served personally or by registered mail addressed to the person to whom notice is to be given at his latest known address and, where notice is served by registered mail, the service shall be deemed to have been made on the third day after the day of mailing unless the person to whom notice is given establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice until a later date.
4. Section 32 of the said Act is amended by adding thereto the following subsection:

(8) The discipline committee may suspend or cancel the accreditation of any pharmacy if it finds after a hearing that the provisions of this Act or the regulations with respect to accreditation are not complied with, and subsections 2, 3, 5, 6 and 7 of this section and subsections 1 and 2 of section 33 shall apply mutatis mutandis thereto.

5. Section 34 of the said Act is repealed and the following substituted therefor:

34. Where,

(a) a pharmaceutical chemist has not paid any annual fee as required by clause a or b of subsection 1 of section 22; or

(b) a person or corporation has not paid any annual fee as required by clause c of subsection 1 of section 22,

the registrar shall give the pharmaceutical chemist, person or corporation notice of such default and, if the default continues for sixty days after such notice, the Council may direct,

(c) in the case of the non-payment of an annual fee referred to in the said clause a or b, that the registration of the pharmaceutical chemist be cancelled; or

(d) in the case of the non-payment of an annual fee referred to in the said clause c, that the accreditation of the pharmacy in respect of which the default continues be cancelled,

and the registrar shall note such cancellation in the register or in the accreditation records, as the case requires, and any certificate of such registration or accreditation issued under this Act is thereby cancelled.

6. Subsection 2 of section 42 of the said Act is repealed.

7. This Act comes into force on the day it receives Royal Assent.

8. This Act may be cited as The Pharmacy Amendment Act, 1973.