PHARMACY ACT, 1994 ACT 489

ARRANGEMENT OF SECTIONS

Establishment and Functions of Pharmacy Authority

1. Establishment of the Authority.

2. Functions of the Authority.

3. Governing body of the Authority.

4. Term of office of members.

5. Meetings of the Council.

6. Power to co-opt.

7. Committees of the Council.

Finance and Administration

8. Allowances.

9. Appointment of other staff.

10. Regional offices of the Authority.

11. Expenses of the Authority.

12. Accounts and audit.

13. Annual report.

14. Ministerial responsibility.

Regulation of Pharmacy Practice

15. Pharmacists to register.

16. Application for registration.

17. Certificate of registration.

18. Registrar.

19. Register of pharmacists.

20. Functions of the registrar.

21. Abridgement of registration.

22. Re-registration.

23. Disciplinary committee.

24. Restriction on use of “pharmacists” and “pharmacy”.

25. Annual publication of list of pharmacists.

Pharmacies, Licensing of Premises

26. Operation of pharmacies.

27. Certificate to supply restricted drugs from premises.

28. Licensing of bodies.

29. Licensed chemical sellers.

30. Licence for wholesale supply of restricted drugs.

31. Premises from which restricted drugs may be supplied.

32. Action to be taken after supply of restricted drugs.

33. Supply of dangerous drugs.

34. Dangerous drugs record book.

35. Prescription for supply of Class A drugs.

36. Restriction on preparation of restricted drugs.

37. Supply of Class B drugs.

38. Possession of dangerous drugs.

39. Classification of drugs.

40. Medical aid.

Miscellaneous

41. Entry of premises.

42. Powers of investigation.

43. Obstruction.

44. Inspection officer to produce document.

45. Offences and penalties.

46. Regulations.

47. Interpretation.

48. Repeal and saving.

ACT 489

PHARMACY ACT, 19941(1)

AN ACT to revise the laws relating to pharmacy, to establish a Pharmacy Council, for the registration of pharmacies, the regulation and control of the practice of pharmacy, the distribution of pharmacies, the licensing of premises for pharmacies and to provide for related matters.

Establishment and Functions of Pharmacy Council

1. Establishment of the Authority

There is hereby established a Pharmacy Authority as a public corporation with all the powers of a

body corporate.

2. Functions of the Authority

(1) The Authority is responsible for securing in the public interest the highest standards in the practice

of pharmacy.

(2) Without prejudice to subsection (1), the Authority shall

(a) ensure that courses of study and training in pharmacy at an institution in the Republic

guarantee the necessary knowledge and skills needed for the efficient practice of pharmacy;

(b) determine in consultation with the appropriate educational institutions courses of instruction

and practical training for pharmacy students;

(c) prescribe standards of professional conduct;

(d) exercise disciplinary power over pharmacists;

(e) uphold and enforce professional standards through the disciplinary powers conferred on it;

(f) keep a register of duly qualified and practising pharmacists; and

(g) regulate the distribution of pharmacies in the country.

3. Governing body of the Authority

(1) The governing body of the Authority is a Council consisting of

(a) a registered pharmacist of not less than fifteen years standing as a pharmacist, as the chairman;

(b) the director of pharmaceutical services of the Ministry of Health;

(c) the Dean of the Faculty of Pharmacy, Kwame Nkrumah University of Science and Technology;

(d) the President of the Pharmaceutical Society of Ghana;

(e) two registered pharmacists including at least one fellow, elected by the Pharmaceutical Society of Ghana;

(f) two other persons one of whom is a pharmacist and the other a legal practitioner of not less than ten years standing as a lawyer; and

(g) the registrar of the Authority.

(2) The members of the Council shall be appointed by the President in accordance with article 70 of the Constitution.

4. Term of office of members

The members of the Council specified in paragraphs (a), (e) and (f) of section 3 shall hold office for three years and are eligible for re-appointment.

5. Meetings of the Council

(1) The Council shall meet at least once in three months for the despatch of business at the times and places determined by the chairman.

(2) The quorum at a meeting of the Council is five.

(3) The chairman shall preside at each meeting of the Council and in the absence of the chairman a

member of the Council elected by the members present from among their number shall preside.

(4) A decision at a meeting of the Council shall be that of the majority of the members present and

voting and in the event of an equality of votes, the person presiding at the meeting shall have a casting

vote.

(5) The validity of proceedings of the Council shall not be affected by a vacancy in its membership or

a defect in the appointment or qualification of a member.

(6) Except as otherwise provided in this Act, the Council shall regulate the procedure for its meetings.

6. Power to co-opt

The Council may co-opt a person to act as an adviser at any of its meetings but a co-opted person is

not entitled to vote at the meeting.

7. Committees of the Council

(1) The Council may appoint the committees that it considers necessary, and delegate to a committee

any of its functions.

(2) A committee appointed by the Council may include members or non-members of the Council, but

shall be chaired by a member of the Council.

Finance and Administration

8. Allowances

There may be paid to the members of the Council, members of a committee of the Council and to persons co-opted to attend meetings of the Council the allowances approved by the Minister for Finance in consultation with the Minister for Health.

9. Appointment of other staff

(1) There shall be appointed for the Authority the officers who it may require for the effective performance of its functions.

(2) The President shall in accordance with article 195 of the Constitution appoint the officers and the other staff of the Authority.

10. Regional offices of the Authority

(1) The Authority shall establish in each Region a regional office of the Authority.

(2) There shall be appointed for the regional offices of the Authority the required number of officers for the performance of the functions of the Council in the regions.

(3) A regional office of the Authority shall perform the functions of the Authority determined by the Council.

(4) The Council may create other lower offices as may facilitate the operations of the Authority.

11. Expenses of the Authority

Parliament shall provide for the Authority the moneys that it may require for the effective performance

of its functions.

12. Accounts and audit

(1) The Authority shall keep books of account and proper records in relation to them in a form

approved by the Auditor-General.

(2) The accounts of the Authority shall be audited by the Auditor-General within six months after the

end of each financial year.

13. Annual report

(1) The Council shall submit an annual report on its activities to the Minister within six months after

the end of the financial year.

(2) The financial year of the Authority shall be the same as the financial year of the Government.

14. Ministerial responsibility

The Minister for Health has ministerial responsibility for the Authority.

Regulation of Pharmacy Practice

15. Pharmacists to register

A person shall not practise as a pharmacist unless that person is registered in accordance with this Act.

16. Application for registration

A person seeking registration shall apply in the prescribed form to the registrar of the Authority.

17. Certificate of registration

(1) Subject to subsection (2), where the Council is satisfied that an applicant is of good character and

(a) holds a degree in pharmacy, or

(b) holds a qualification equivalent to a degree that entitles the applicant to be registered as a

pharmacist in the country where the qualification was obtained,

it shall direct the registrar to enter the applicant's name in the register and to issue the applicant with a

certificate of registration on the payment of the prescribed fee by the applicant.

(2) A person shall not be registered under subsection (1) unless that person has taken and passed the

Ghana pharmacy professional qualifying examination.

18. Registrar

(1) The Authority shall have a registrar who shall be appointed by the President in accordance with

article 195 of the Constitution.

(2) The registrar shall hold office on the terms and conditions specified in the letter of appointment.

(3) A person shall not be appointed the registrar unless that person is a pharmacist with at least ten

years experience as a pharmacist and is the holder of a relevant post graduate qualification.

19. Register of pharmacists

(1) The registrar shall keep a register of pharmacists in which shall be recorded by the registrar the

names of registered pharmacists.

(2) The register shall be in the form determined by the Council.

20. Functions of the registrar

The registrar is responsible, subject to the directions of the Council, for the day-to-day administration

of the affairs of the Authority and is answerable to the Council in the performance of functions under this

Act.

21. Abridgement of registration

(1) A certificate of registration issued under section 17 may be cancelled or suspended for the period

determined by the Council where disciplinary enquiry conducted by the Council confirms that the

registered pharmacist

(a) has been convicted of an offence under this Act, or

(b) has been convicted of an offence related to pharmacy under any other enactment and

sentenced to imprisonment, or

(c) is guilty of professional misconduct.

(2) A person aggrieved by the cancellation or suspension of a certificate of registration may appeal

against the decision to the High Court.

(3) Where a certificate of registration is to be cancelled or suspended, the registrar shall

(a) serve on the pharmacist a notice informing the pharmacist of the order and requiring the

pharmacist to deliver the certificate within twenty-one days of the date of the service,

(b) publish in the Gazette a notice of the cancellation or suspension, and

(c) in the case of cancellation, delete the name of the pharmacist from the register of

pharmacists.

(4) Despite subsection (3), where a pharmacist appeals against a cancellation or suspension, the

registrar shall only act in accordance with subsection (3) on the expiration of the period of notice of

appeal or after the disposal of the appeal.

(5) The registrar shall, at the expiration of a suspension period, return the certificate to the pharmacist,

and publish a notice of the expiration of the suspension in the Gazette.

22. Re-registration

A registered pharmacist whose registration is cancelled may apply for re-registration if a period of not

less than five years has elapsed since notice of the cancellation was published in the Gazette.

23. Disciplinary committee

(1) Without prejudice to section 7, there is hereby established a disciplinary committee of the

Authority consisting of

(a) the president of the Pharmaceutical Society of Ghana,

(b) the Director of Pharmaceutical Services of the Ministry of Health,

(c) the legal professional member of the Board,

(d) the Dean of the Faculty of Pharmacy, Kwame Nkrumah Science and Technology, and

(e) a pharmacist elected by the Board from among its members.

(2) The disciplinary committee shall enquire into matters relating to professional conduct and

standards of pharmacists which are referred to it by the Council.

(3) The procedure of the disciplinary committee and penalties that it may recommend to the Council

shall be prescribed by the Regulations.

(4) A person aggrieved by a decision of the Council in a disciplinary matter may appeal to the High

Court.

24. Restriction on use of “pharmacists” and “pharmacy”

(1) A person who is not a pharmacist shall not use the description or pose as a pharmacist by the use

of the terms “pharmacist”, “chemist”, “dispenser of drugs”, “druggist”, “compounder of drugs”, or any

other similar term.

(2) A person shall not open or permit any other person to open any premises to the public under the

description of “pharmacy”, “dispensary”, “chemist”, “drug store” or any other similar description unless a

registered pharmacist is on the premises to supervise the dispensing of drugs or medication.

25. Annual publication of list of pharmacists

The registrar shall publish a list of registered pharmacists of good standing in the Gazette in January of

each year.

Pharmacies, Licensing of Premises

26. Operation of pharmacies

Subject to this Act, a person shall not operate as a retail pharmacy unless that person is a registered

pharmacist.

27. Certificate to supply restricted drugs from premises

(1) Where the Council is satisfied that premises are suitable for the supply of restricted drugs, other

than Class A or B drugs, it may direct the registrar to issue in respect of the premises a general or limited

certificate if an application is made in respect of either certificate.

(2) The registrar shall, on the payment of the prescribed fee, issue the appropriate certificate to the

applicant on the direction of the Council.

(3) A person who supplies restricted drugs from premises in respect of which a certificate is issued

shall notify the Council of a material alteration in the structure of the premises within six months of the

alteration.

(4) The Council may revoke a certificate if it is satisfied that the physical conditions of the premises

have ceased to be suitable for the supply of restricted drugs.

28. Licensing of bodies

(1) Subject to this Act, where an application is made in the prescribed form by a company, and the

Council is satisfied

(a) that the applicant is fit to carry on the business of mixing, compounding, preparing, or

supplying restricted drugs by retail, and

(b) that the applicant's business of mixing, compounding, preparing or supplying restricted

drugs by retail will be carried on under the supervision of a pharmacist,

the Council may direct the registrar to issue to the applicant on payment of the prescribed fee, a licence

authorising the applicant to continue the business.

(2) Where the Council is satisfied that a company has acted contrary to a provision of this Act, or a

condition specified in the licence has ceased to exist for the continuation of the business referred to in

subsection (1), it may revoke the licence.

29. Licensed chemical sellers

(1) Despite section 28, where an application is made in the prescribed form by a person, other than a

pharmacist or body corporate, and the Council is satisfied

(a) that the applicant is fit to continue the business of supplying by retail restricted drugs, other

than Class A or B drugs, and

(b) that the area in which the applicant proposes to continue that business is not sufficiently

served by existing facilities for the retail supply of those drugs,

it may direct the registrar, on the payment of the prescribed fee by the applicant, to issue to the applicant a

licence authorising the applicant to continue the business of supplying by retail restricted drugs, other

than Class A or B drugs, on the premises specified in the licence.

(2) The Council may revoke a licence, if it is satisfied that the licence holder has contravened a

provision of this Act, or that a condition specified in the licence has ceased to exist for the continuation of

the business of supplying by retail restricted drugs, other than Class A or B drugs.

(3) The Council may, instead of revoking a licence under subsection (2), impose a penalty not

exceeding five hundred penalty units on the licence holder.

30. Licence for wholesale supply of restricted drugs

(1) A person shall not continue the business of supplying restricted drugs by wholesale unless that

person has a licence issued in accordance with this section.

(2) Where an application is made for a licence in the prescribed form to continue the business of

supplying restricted drugs by wholesale, and the Council is satisfied that the applicant qualifies for the

licence, the Council may, on payment of the prescribed fee by the applicant, grant the licence.

(3) A licence granted under this section may include a condition prohibiting or limiting the supplying

of restricted drugs of a particular description.

(4) The Council may revoke a licence if it is satisfied that the licence holder has contravened a

provision of this Act or a condition specified in the licence has ceased to exist for the continuation of the

business of supplying restricted drugs by wholesale.

31. Premises from which restricted drugs may be supplied

A person shall not continue a business of supplying from any premises the restricted drugs classified

by the Regulations as

(a) Class A drugs,

(b) Class B drugs,

(c) Class C drugs,

unless that person has a valid general or limited licence issued under this Act in relation to those premises.

32. Action to be taken after supply of restricted drugs

Where a restricted drug is supplied under prescription, the supplier of the drug shall

(a) enter on the prescription in legible writing the date on which the drug is supplied, and the name and address of the supplier, and

(b) if the drug is fully dispensed, retain the prescription for a period of two years on the premises at which the drug is dispensed, in a manner as to be readily available for inspection.

33. Supply of dangerous drugs

A person shall not supply a dangerous drug unless

(a) the drug is in a container of the prescribed description, and

(b) the container bears a label indicating the prescribed particulars of its contents.

34. Dangerous drugs record book

(1) A person who supplies Class A or B drugs shall keep on the premises from which those drugs are

supplied a dangerous drugs record book.

(2) Before a person supplies Class A drugs that person shall record in the dangerous drugs record book,

(a) the name and quantity of the drug to be supplied,

(b) the name and address, signature or thumbprint of the person to whom the drug is supplied,

(c) the signature of the person who supplies the drug, and

(d) the date of supply.

(3) Where a drug is supplied under a prescription which is retained by the supplier of the drug and an

entry is made in the dangerous drug record book enabling the prescription to be referred to, an entry need

not be made in the dangerous drug record of the particulars specified in the prescription.

35. Prescription for supply of Class A drugs

A pharmacist or licensed company shall not supply Class A drugs except under a prescription issued

by a medical practitioner, a dentist or a veterinary practitioner.

36. Restriction on preparation of restricted drugs

(1) A person shall not mix, compound, prepare or supply a restricted drug unless that person is a pharmacist or is a licensed company.

(2) Subsection (1) does not apply to

(a) the supply of a drug by a medical practitioner, dentist or veterinary surgeon to a patient in urgent need of treatment,

(b) the supply of a drug other than a Class A or B drug by a licensed chemical seller,

(c) the mixing compounding or preparing of a drug under the supervision of a pharmacist by a student or a trainee undergoing instructions at an institution approved by the Council, or

(d) the supply of a drug in accordance with directions given by a medical practitioner to an out-patient attending a medical treatment centre, or to an in-patient by a nurse.

37. Supply of Class B drugs

A pharmacist or licensed company may supply Class B drugs to a person, without prescription if the supplier of the drug reasonably believes that person to be a proper person to whom the drug is to be supplied.

38. Possession of dangerous drugs

Subject to this Act, a person shall not possess or control dangerous drugs.

39. Classification of drugs

The Minister shall, on the advice of the Food and Drugs Board established under the Food and Drugs Act, 1992,2(2) by legislative instrument specify drugs that are classified as Class A, Class B and Class C for the purposes of this Act, and may prescribe conditions for the importation, possession, supply and dispensing of any of those drugs.

40. Medical aid

(1) Despite anything contained in section 48 of the Medical and Dental Act, 19723(3) (which restricts

the rights to practise medicine or dentistry and to recover charges for it) a pharmacist may give medical

and dental advice or aid

(a) by way of first aid in the case of an accident, or

(b) by way of first aid treatment in the case of simple ailments of common occurrence where it is

not reasonably practicable for the patient to consult a medical practitioner or dentist.

(2) The pharmacist shall, in the case of an emergency, immediately or within twenty-four hours of

administering the initial dosage, refer the patient to a medical practitioner or a dentist and shall in the

referral, state the drugs used and the extent of the treatment given.

Miscellaneous

41. Entry of premises

(1) A person authorised by the Council, may for the purposes of section 42, enter at a reasonable time

(a) premises in respect of which a licence or a certificate issued under this Act is valid, or

(b) premises on or in relation to which that person has reasonable cause to believe that an

offence with respect to this Act has been committed.

(2) A police officer not below the rank of assistant superintendent may enter any premises if that

officer has reasonable cause to believe that an offence with respect to this Act has been committed.

42. Powers of investigation

(1) An inspecting officer authorised under section 41 to enter any premises

(a) may require a person on the premises to furnish information in that person's possession concerning the activities on the premises, and the persons involved in the activities,

(b) may inspect the premises and the articles found on the premises, and

(c) may take away a drug found on the premises.

(2) Where a drug is taken away under subsection (1) reasonable payment for the drug shall be tendered by the inspecting officer.

(3) Despite subsection (2),

(a) a payment shall not be tendered in respect of a drug if the inspecting officer reasonably suspects that the drug is unfit for its purpose by reason of deterioration, impurity, adulteration or other defect, or

(b) if the drug is found to be fit, reasonable payment shall be tendered by the inspecting officer in respect of the portion of the drug that is not returned to its owner in good condition, or

(c) a payment shall not be tendered in respect of a drug if the inspecting officer anticipates that proceedings for an offence under this Act may be brought in respect of the drug.

(4) Where proceedings are not commenced under subsection (3) within six months, reasonable payment shall be tendered by the inspecting officer in respect of the portion of the drug that has not been returned to its owner in good condition.

(5) Where drugs or articles are taken under this section, an inventory of the drugs or articles shall be made and shall be signed by the pharmacist or the chemical seller and the inspecting officer, and a copy of the inventory shall be given to the pharmacist or the chemical seller.

43. Obstruction

A person shall not obstruct an inspecting officer in the exercise of the inspecting powers under this

Act.

44. Inspection officer to produce document

An inspecting officer exercising a power conferred under this Act shall produce on demand a duly

authenticated document showing the entitlement to exercise that power.

45. Offences and penalties

(1) A person who

(a) is not registered under section 17 and poses as person so registered, or

(b) does not have the required qualification to practice as a pharmacist and knowingly poses as having that qualification, or

(c) contravenes a provision of this Act,

commits an offence and is liable on conviction to a fine not exceeding one thousand penalty units or to a term of imprisonment not exceeding five years or to both the fine and the imprisonment; and in the case of a continuing offence to a further fine not exceeding twenty five penalty units for each day during which the offence continues after written notice has been served on the offender by the Council.

(2) Where an offence under this Act is committed by a body of persons,

(a) in the case of a body corporate, each director, secretary or other officers of that body shall be deemed to have committed that offence;

(b) in the case of partnership, each partner shall be deemed to have committed that offence.

(3) A person shall not be convicted under subsection (2) if it is proved that the offence was committed without the knowledge or consent of that person, or that the necessary steps were not taken having regard to the circumstances, to prevent the commission of the offence.

46. Regulations

The Minister may, on the advice of the Council, by legislative instrument make Regulations

(a) prescribing the procedure for the holding of disciplinary enquiry into allegations of misconduct against pharmacists;

(b) prescribing matters relating to disciplinary orders by the Board;

(c) relating to prescription of drugs;

(d) prescribing fees to be paid for a matter or thing to be done under this Act;

(e) prescribing the conditions including the type of premises for the issue of a valid general or limited certificate by the Council; and

(f) providing generally for the effective implementation of this Act.

47. Interpretation

In this Act, unless the context otherwise requires,

“Authority” means the Pharmacy Authority established by section 1;

“Council” means the governing body of the Authority established by section 3;

“dangerous drugs” means drugs prescribed by Regulations as dangerous drugs;

“drug” has the same meaning as provided in section 51 of the Food and Drugs Act, 1993;4(4)

“inspecting officer” means a person authorised under section 41 to enter and inspect premises;

“medical treatment centre” means a health institution for the treatment of out-patients and which is under the immediate supervision of an attendant approved by the Minister;

“Minister” means the Minister responsible for Health;

“restricted drugs” means dangerous drugs or any other drug which is not an exempted drug;

“Region” means a region of the Republic;

“Regulations” means the Regulations made under this Act.

48. Repeal and saving

Spent.5(5)

Endnotes

1 (Popup - Footnote)

1.

The Act was assented to on 30th December 1994, and notified in the Gazette on 30th December, 1994.

2 (Popup - Footnote)

2.

P.N.D.C.L. 305B.

3 (Popup - Footnote)

3.

N.R.C.D. 91.

4 (Popup - Footnote)

4.

P.N.D.C.L. 305B.

5 (Popup - Footnote)

5.

The section provided that:

“(1)

The following enactments are repealed

the Pharmacy and Drugs Act, 1961 (Act 64);

the Pharmacy and Drugs (Amendment) Act, 1963 (Act 222);

the Pharmacy and Drugs Act, 1961 (Amendment) Decree, 1969 (N.L.C.D. 361);

the Pharmacy and Drugs Act, 1961 (Act 382);

the Pharmacy and Drugs (Amendment) Decree, 1976 (S.M.C.D. 52); and

the Pharmacy and Drugs (Amendment) Law, 1990 (P.N.D.C.L. 237).

(2)

Despite the repeal under subsection (1),

(a) a regulation, licence, certificate, registration or appointment issued or made under the repealed

enactment, and

(b) the register of pharmacists,

in existence or in force immediately before the coming into force of this Act shall continue in force as

if issued or made under this Act until revoked, altered, cancelled or expires.

(3)

Despite the repeal under subsection (1), the following Schedules to the Pharmacy and Drugs Act,

1961 (Act 64) shall until provision is made by Regulations under section 39 of this Act continue in

force:

(a)

First Schedule;

(b)

Second Schedule—Part One;

(c)

Third Schedule; and

(d)

Fourth Schedule.”