This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 1 *April,* 1969.

New South Wales

ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

* *

Act No. , 1969.

An Act to make further provisions regulating persons who carry on the business of a pharmacist; for this and other purposes to amend the Pharmacy Act, 1964, as subsequently amended; and for purposes connected therewith.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Pharmacy (Amendment) Act, 1969". Short title and citation.

(2)

(2) The Pharmacy Act, 1964, as subsequently amended and as amended by this Act, may be cited as the Pharmacy Act, 1964–1969.

(3) Except where otherwise expressly provided, this Act shall commence upon the day on which the assent of Her Majesty to this Act is signified.

(4) The provisions of paragraph (i), subparagraph (ix) of paragraph (r) and subparagraph (iv) of paragraph (t) of subsection one of section three of this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette; and different days may be so appointed in respect of each of those provisions.

(5) Subparagraph (ii) of paragraph (j) of subsection one of section three of this Act shall commence upon the expiration of a period of three years that commences on the day on which the assent of Her Majesty to this Act is signified.

Reconstitution of Pharmacy Board of New South Wales.

2. (1) Upon the appointed day the Pharmacy Board of New South Wales shall be reconstituted and shall consist of nine members of whom—

(a) eight shall be the persons who immediately before the appointed day held office as members of that Board; and

(b) one shall be a pharmacist who is carrying on the business of a pharmacist in New South Wales but not in the County of Cumberland, the County of Northumberland or the City of Greater Wollongong and who shall be appointed by the Governor on the nomination of the persons who on the date of nomination hold office as members of that Board.

(2) The members of the Pharmacy Board of New South Wales holding office under subsection one of this section shall, subject to the Pharmacy Act, 1964, as subsequently amended, cease to hold office at the expiration of the day next preceding the prescribed day.

(3) Upon the prescribed day the Pharmacy Board of New South Wales shall be reconstituted and shall consist of nine members who shall be appointed in accordance with section four of the Pharmacy Act, 1964, as subsequently amended and as amended by this section.

(4) For the purposes only of the election and appointment of the additional member of the Pharmacy Board of New South Wales as reconstituted by subsection three of this section and of any matters necessary for or incidental to that election, appointment and reconstitution the provisions of subsection six of this section shall commence upon the appointed day and shall commence for all purposes on the prescribed day.

(5) In this section—

"appointed day" means a day to be appointed by the Governor and notified by proclamation published in the Gazette, being a day earlier than the prescribed day;

"prescribed day" means the day next following the expiration of the period for which the members of the Pharmacy Board who held office immediately before the day on which the assent of Her Majesty to this Act is signified, were appointed as members of that Board.

(6) The Pharmacy Act, 1964, as subsequently amended, is amended— Amendment of Act No. 48, 1964.

(a) (i) by omitting from subsection two of section four the word "eight" and by inserting in lieu thereof the word "nine"; Sec. 4. (Pharmacy Board of New South Wales.)

(ii)

(ii) by inserting next after paragraph (a) of the same subsection the following new paragraph :—

(aa) one shall be a pharmacist who is carrying on the business of pharmacist in New South Wales but not in the County of Cumberland, the County of Northumberland or the City of Greater Wollongong and who shall be elected by pharmacists in the prescribed manner;

(b) by inserting in subsection one of section five after the words "paragraph (a)" the words "or paragraph (aa)"; Sec. 5. (President of Board.)

(c) by inserting in paragraph (a) of subsection two of section seven after the words "paragraph (a)" the words "or paragraph (aa)". Sec. 7. (Filling of casual vacancies.)

3. (1) The Pharmacy Act, 1964, as subsequently amended, is further amended— Further amendment of Act No. 48, 1964.

(a) (i) by inserting in subsection four of section two after the word "thereof," the words "or a practising pharmacist"; Sec. 2. (Repeal and savings.)

(ii) by omitting from the same subsection the words "reference to a practising" and by inserting in lieu thereof the words "reference to a";

(b) by omitting from section three the definition of "Practising pharmacist"; Sec. 3. (Interpretation.)

(c) by inserting next after paragraph (d) of subsection one of section six the following new paragraph :— Sec. 6. (Vacation of office.)

(dd) he becomes bankrupt, compounds with his creditors or makes an assignment of his estate for their benefit;

(d)

(d) by omitting paragraph (e) of subsection two of section twelve; Sec. 12. (Register of Pharmacists.)

(e) by omitting section thirteen and by inserting in lieu thereof the following section :— Subst. sec. 13.

5 13. (1) Subject to section seventeen of this Act, a person shall be entitled to be registered as a pharmacist if he— Qualifications for registration—New South Wales graduates.

(a) has passed through a regular graded course in pharmacy of at least three years' duration 10 at the University of Sydney or at any other prescribed university in New South Wales and has received from that university after due examination a degree in pharmacy;

(b) satisfies the Board that he has served in the 15 Commonwealth of Australia for not less than the prescribed period as an assistant—

(i) in the business of a pharmacist keeping open shop for the purpose of dispensing and compounding medi- 20 cal prescriptions;

(ii) to a pharmacist in charge of a dispensary (not forming part of a business referred to in subparagraph (i) of this paragraph) in which 25 medicines are dispensed or compounded on the order or prescription of a medical practitioner;

(iii) to a pharmacist who is also the managing director or general 30 manager of a company where such assistantship is served in open shop kept by such company for the purpose of dispensing and compounding medical prescriptions; or

(iv)

(iv) to a pharmacist in charge of a dispensary in an open shop kept by a company for the purpose of dispensing and compounding medicines; and

(c) has had experience in the dispensing and compounding of medical prescriptions that the Board regards as sufficient to enable him satisfactorily to carry on the business of a pharmacist in New South Wales.

(2) In paragraph (b) of subsection one of this section—

"pharmacist" includes a person registered under the law in force relating to the registration of pharmacists in any other State of the Commonwealth of Australia or in the Australian Capital Territory;

"prescribed period" means—

(a) in the case of a person who was awarded a pass with honours in the examination referred to in paragraph (a) of subsection one of this section —a period of six months or separate periods aggregating six months, each of which periods was not less than one month; and

(b) in the case of any other person— a period of twelve months or separate periods aggregating twelve months, each of which periods was not less than one month,

whether or not that period or any of those periods occurred before or after, or partly before and partly after, he received his degree in pharmacy.

(f)

(f) by omitting from section fourteen the words "and to be described in the register as a practising pharmacist"; Sec. 14. (Prescribed foreign qualifications for registration.)

(g) (i) by omitting from section fifteen the words "and to be described in the register as a practising pharmacist"; Sec. 15. (Other foreign qualifications for registration.)

(ii) by omitting paragraphs (b) and (c) of the same section and by inserting in lieu thereof the following paragraph :—

(b) has passed an examination in pharmacy, including such subjects as may be approved by the Board, before examiners appointed by the Senate of the University of Sydney or the governing body of any other prescribed university in New South Wales; and

(h) (i) by omitting from section sixteen the words "and to be described in the register as a practising pharmacist"; Sec. 16. (Qualifications for registration—New South Wales apprentices.)

(ii) by inserting in paragraph (d) of the same section after the word "examination" the words "held before the expiration of a period of three years commencing on the day on which the assent of Her Majesty to the Pharmacy (Amendment) Act, 1969, was signified";

(i) by inserting next after section seventeen the following new section :— New sec. 17A.

17A. (1) Where— Provisional registration.

(a) a person has applied to be registered;

(b)

(b) he would, if the Board were satisfied—

(i) that he has had the requisite experience referred to in paragraph (b) of subsection one of section thirteen, or in section fourteen, of this Act; and

(ii) as to the matters referred to in paragraph (a) of subsection one of section seventeen of this Act,

be entitled to be registered; and

(c) his application for registration has not been dealt with by the Board,

the president of the Board or, in his absence from the City of Sydney, any other member of the Board authorised generally by the Board to grant certificates of provisional registration, may, if he is satisfied as to the matters referred to in subparagraphs (i) and (ii) of paragraph (b) of this subsection, and on payment of the prescribed fee, grant to that person a certificate of provisional registration in the prescribed form.

(2) Where, on an application made by any person for a certificate of provisional registration under this subsection, the Board, the president of the Board or, in his absence from the City of Sydney, any other member of the Board authorised generally by the Board to grant certificates of provisional registration is satisfied—

(a) that that person is justly entitled to a prescribed qualification referred to in section fourteen of this Act that is to be conferred on or granted to him by a prescribed university, college, institute or other body, so referred to, that is in the Commonwealth of Australia;

(b)

(b) that he will in due course have that prescribed qualification conferred on or granted to him according to the practice of that prescribed university, college, institute or other body;

(c) that he has had the requisite experience referred to in section fourteen of this Act; and

(d) as to the matters referred to in paragraph (a) of subsection one of section seventeen of this Act,

the Board or if the Board has not dealt with his application under this subsection the president of the Board or other such member of the Board may, on payment of the prescribed fee, grant to that person a certificate of provisional registration in the prescribed form.

(3) Where a person has obtained a certificate of provisional registration he shall be deemed to be registered under this Act until—

(a) the date stated in the certificate; or

(b) such later date as may be fixed by the Board,

which date shall, in either case, be not later than three months after the granting of the certificate.

(4) The Board may, at any time before the date so stated or fixed, for such cause as to it seems proper, cancel a certificate of provisional registration without prejudice to the application of the holder of the certificate to be registered.

(5) Upon the cancellation of a certificate of provisional registration, the holder of the certificate shall thereupon cease to be deemed to be registered.

(6) If a person to whom a certificate of provisional registration has been granted becomes registered before the date stated or fixed pursuant to subsection three of this section in respect of that certificate, his registration shall, unless otherwise decided by the Board, date from the granting of the certificate.

(j) (i) by omitting from section eighteen the word "practising" wherever occurring;

(ii) by omitting the same section;

Sec. 18. (Apprentices to be allowed to attend lectures and examinations.)

(k) by inserting in subsection four of section nineteen after the word "writing" the words "and if it is satisfied that he is of good character";

Sec. 19. (Roll fee.)

(l) (i) by omitting from subsection one of section twenty the words "or misdemeanour" wherever occurring and by inserting in lieu thereof the words ", misdemeanour, crime or offence";

Sec. 20. (Removal of name on account of misconduct.)

(ii) by omitting from the same subsection the words "his registration be suspended" and by inserting in lieu thereof the words "he be suspended from practice as a pharmacist";

(iii) by omitting paragraph (c) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—

(c) for, on behalf of or in association with some person, company, corporation or partnership carries on the business of a pharmacist or has a pecuniary interest, direct or indirect, in the business of a pharmacist, where the person, company, corporation or partnership is not entitled to carry on that business or to have that pecuniary interest.

(iv) by omitting from subsection three of the same section the words "In the case of a conviction referred to in paragraph (a) of subsection one of this section, the Board shall not" and by inserting in lieu thereof the words "The Board shall not, under this section,";

(v) by omitting paragraph (b) of the same subsection;

(vi) by inserting next after the same subsection the following new subsections :—

(3A) The Board may, after receiving a complaint in respect of a pharmacist, inform the pharmacist of the nature of the complaint and, by notice, invite the pharmacist to make, within such time as the Board specifies in the notice, such representations to the Board with respect to the complaint as he thinks fit.

(3B) The Board may, after receiving any such representations or after the expiry of the time specified in the notice, whichever first happens, dismiss the complaint or set it down for inquiry under this section.

(vii) by inserting at the end of the same section the following new subsection :—

(7) Where the name of a pharmacist has been removed from the register under this section, the pharmacist shall be deemed to be not registered as a pharmacist under this Act.

(m) by inserting next after section twenty the following new section :— New sec. 20A.

20A. (1) Notwithstanding any other provision of this Act where the Board is satisfied on such evidence as to it seems proper that any applicant for registration under this Act or any pharmacist is, by reason of infirmity, injury or illness, whether mental Refusal or suspension of registration or removal from register on ground of unfitness.

mental or physical, unfit to carry on the business of a pharmacist the Board may refuse to register the applicant's name in the register or may order that the name of the pharmacist be removed from the register or that he be suspended from practice as a pharmacist for such period as may be specified in the order.

(2) For the purposes of subsection one of this section the Board—

(a) may require an applicant for registration or a pharmacist to undergo, at the expense of the Board, such medical examinations by such medical practitioners as may be specified by the Board; and

(b) may hold such inquiry as the Board thinks fit.

(3) A failure or refusal by any person required by the Board to undergo a medical examination in accordance with a requirement of the Board made under paragraph (a) of subsection two of this section may be regarded by the Board as evidence that that person is, by reason of infirmity, injury or illness, whether mental or physical, unfit to carry on the business of a pharmacist.

(4) Nothing in subsection one of this section affects the powers of the Board under any other provision of this Act to refuse an application for registration under this Act or to remove the name of a pharmacist from the register or to suspend a pharmacist from practice.

(5) Where the name of a pharmacist has been removed from the register under this section, the pharmacist shall be deemed to be not registered as a pharmacist under this Act.

(n) by omitting from subsection one of section twenty-one the words "sent by post" and by inserting in lieu thereof the words "served personally on the pharmacist, or is sent by registered post"; Sec. 21. (Effect of Board's order.)

5 (o) (i) by omitting from subsection one of section twenty-two the words "the suspension of his registration" and by inserting in lieu thereof the words "that he be suspended from practice as a pharmacist"; Sec. 22. (Appeal against orders of the Board.)

10 (ii) by omitting from the same subsection the words "his registration suspended" and by inserting in lieu thereof the words "he has been so suspended from practice";

(iii) by inserting at the end of the same section
15 the following new subsection :—

(4) The provisions of this section do not apply so as to enable an applicant for provisional registration or the holder of a certificate of provisional registration that has been can-
20 celled to appeal against the refusal or cancellation of the certificate of provisional registration.

(p) (i) by omitting from section twenty-three the words "whose registration is suspended" and
25 by inserting in lieu thereof the words "who has been suspended from practice as pharmacist or whose certificate of provisional registration has been cancelled"; Sec. 23. (Surrender of certificates of registration.)

(ii) by inserting in the same section after the word
30 "suspension" the words "or cancellation";

(iii) by inserting in the same section after the word "registration" where secondly occurring the words "or provisional registration";

(iv) by omitting from the same section the words
35 "by the Board" and by inserting in lieu thereof the words "under this Act";

(q)

(q) by omitting from section twenty-four the words "the registration of any person has been suspended" and by inserting in lieu thereof the words "any person has been suspended from practice as a pharmacist"; Sec. 24. (Restoration of name to register.)

(r) (i) by omitting from subsection one of section twenty-five the word "practising"; Sec. 25. (Persons other than pharmacists not to have interest in pharmacists' businesses.)

(ii) by omitting from subparagraph (i) of paragraph (a) of subsection two of the same section the words "of his being" and by inserting in lieu thereof the words "only of his being an employee";

(iii) by omitting from paragraph (b) of the same subsection the words ", in lieu of that original open shop, with the approval in writing of the Minister in another open shop which is distant not more than ten miles from that original open shop" and by inserting in lieu thereof the words "in another open shop which is within the prescribed area in relation to that original open shop";

(iv) by omitting from subparagraph (i) of paragraph (d) of the same subsection the words ", in lieu of that original open shop";

(v) by omitting from paragraph (b) of the same subparagraph the words "which is distant not more than ten miles from that original open shop" and by inserting in lieu thereof the words "which is within the prescribed area in relation to that original open shop";

(vi) by omitting from paragraph (e) of the same subsection the words "more than one open shop in which he was immediately before the prescribed date carrying on such business from continuing after such commencement to carry

on

on such business in those open shops or, in lieu of any such open shop (in this paragraph referred to as an 'original open shop')" and by inserting in lieu thereof the words "an open shop (in this paragraph referred to as an 'original open shop'), being one of two or more open shops in which he was immediately before the prescribed date carrying on such business, from continuing after such commencement to carry on such business in that original open shop or";

(vii) by omitting from subparagraph (ii) of the same paragraph the words "which is distant not more than ten miles from that original open shop" and by inserting in lieu thereof the words "which is in the prescribed area in relation to that original open shop";

(viii) by inserting at the end of the same subsection the following new paragraph :—

In this subsection "the prescribed area", in relation to an original open shop, means—

(a) an area that is within ten miles of the original open shop; or

(b) where the original open shop was situated in the area that consists of the County of Cumberland, the County of Northumberland and that part of the City of Greater Wollongong that is not within the County of Cumberland—that area.

(ix) by inserting next after the same subsection the following new subsection :—

(2A) Where an application under paragraph (b), (d) or (e) of subsection two of this section is for the Minister's approval to

carry

carry on the business of a pharmacist in an open shop situated in that part of the prescribed area referred to in paragraph (b) of the definition of that expression in that subsection, the Minister shall not approve of the application unless the applicant for the approval has given to the Board at least three months' notice in the prescribed form of his intention to make the application.

(s) by inserting next after section twenty-five the following new section :— New sec. 25A.

25A. (1) Any provision in a bill of sale given in respect of the business of a pharmacist that— Certain provisions in certain bills of sale to be void.

(a) requires the grantor to purchase or otherwise obtain goods or services in connection with that business from the grantee or from any other specified person;

(b) gives to the grantee power to control the manner in which that business shall be carried on;

(c) gives to the grantee access to the books of account kept in respect of that business otherwise than for the purpose of determining whether or not the grantor is complying with the conditions of the bill of sale; or

(d) provides that the grantee shall receive any consideration that varies according to the profits or takings of that business,

shall be void.

(2) The provisions of subsection one of this section do not apply to a bill of sale granted before the day on which the assent of Her Majesty to the Pharmacy (Amendment) Act, 1969, was signified until the expiration of a period of five years commencing on that day.

(t)

(t) (i) by omitting from section twenty-six the word "practising" wherever occurring;

Sec. 26. (Pharmacists not to carry on business in more than one shop.)

(ii) by omitting from subsection two of the same section the words "three open shops" and by inserting in lieu thereof the words "such number of open shops as is equal to the number of partners in the partnership";

(iii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—

(3) Subsection one of this section shall not operate to prohibit—

(a) a pharmacist who, either alone or as a partner of any other person, was immediately before the commencement of this Act carrying on the business of a pharmacist in an open shop (in this paragraph referred to as an "original open shop"), being one of two or more open shops in which he was immediately before the prescribed date carrying on such business, from continuing after such commencement to carry on (whether as owner or otherwise) such business in that original open shop or—

(i) in another open shop in which he was immediately before such commencement entitled under the Pharmacy Act, 1897–1957, to carry on, and was carrying on, such business; or

(ii) with the approval in writing of the Minister in another open shop which is in the prescribed area in relation to that open shop; or

(b) two pharmacists in partnership together who, by reason of subsection two of this section as in force immediately before the day on which the assent of Her Majesty to the Pharmacy (Amendment) Act, 1969, was signified, were entitled to carry on the business of pharmacist in an open shop (in this paragraph referred to as an "original open shop"), being one of three open shops in which they were immediately before that day carrying on such business, from continuing as partners in that partnership after that day to carry on such business in that open shop or with the approval in writing of the Minister in another open shop which is in the prescribed area in relation to that original open shop.

In this subsection—

"prescribed date" means the twenty-seventh day of November, one thousand nine hundred and forty;

"the prescribed area", in relation to an original open shop, means—

(a) an area that is within ten miles of the original open shop; or

(b) where the original open shop was situated in the area that consists of the County of Cumberland, the County of Northumberland and that part of the City of Greater Wollongong that is not within the County of Cumberland—that area.

(iv) by inserting at the end of the same section the following new subsection :—

(5) Where an application under subsection three of this section is for the Minister's approval to carry on the business of a pharmacist in an open shop situated in that part of the prescribed area referred to in paragraph (b) of the definition of that expression in that subsection, the Minister shall not approve of the application unless the applicant for the approval has given to the Board at least three months' notice in the prescribed form of his intention to make the application.

(u) (i) by omitting from section twenty-seven the word "practising" wherever occurring;

Sec. 27. (Pharmacist to be in charge of every open shop and dispensary.)

(ii) by inserting at the end of the same section the following new subsection :—

(5) Where the Board has made an order under this Act that a pharmacist be suspended from practice as a pharmacist for a specified period, that pharmacist shall, during that period, be deemed not to be a pharmacist for the purposes of subsection one of this section.

(v) (i) by omitting from section twenty-eight the word "practising" wherever occurring;

Sec. 28. (Medicines to be dispensed only by or under the superintendence of pharmacists.)

(ii) by inserting at the end of the same section the following new subsection :—

(2) Where the Board has made an order under this Act that a pharmacist be suspended from practice as a pharmacist for a specified period, that pharmacist shall, during that period, be deemed not to be a pharmacist for the purposes of subsection one of this section.

(w) by inserting in section twenty-nine after the words "deceased person" where thirdly occurring the words ", or from having, as such executor, administrator, trustee or person entitled, a pecuniary interest, direct or indirect, in such business,"; Sec. 29. (Business of deceased pharmacist may be carried on temporarily.)

(x) (i) by omitting from subsection one of section thirty the words "or, in the case of a practising pharmacist" where firstly occurring; Sec. 30. (Pharmacist to use only registered qualifications.)

(ii) by omitting from paragraph (b) of the same subsection the words "in the case of a pharmacist, other than a practising pharmacist, the description of pharmacist, or in the case of a practising pharmacist";

(iii) by omitting from subsection two of the same section the words "any person other than a practising pharmacist who poses as a practising pharmacist or" and by inserting in lieu thereof the words "poses as or";

(y) by inserting in section thirty-three after the word "registered" the words "or to be granted a certificate of provisional registration"; Sec. 33. (False entries in the register.)

(z) by inserting in subsection one of section thirty-four after the word "twenty" the words "or 20A"; Sec. 34. (Board may summon and examine witnesses.)

(aa) (i) by omitting from paragraph (b) of section thirty-seven the word "suspended," and by inserting in lieu thereof the words "suspended; or"; Sec. 37. (Evidence.)

(ii) by inserting next after the same paragraph the following new paragraphs :—

(c) that any person was or was not on any date or during any period mentioned in the certificate the holder of a certificate or provisional registration; or

(d) that on any date mentioned in the certificate the certificate of provisional registration of any person was cancelled.

(2) Upon the day upon which the assent of Her Majesty to this Act is signified, any person whose name was, immediately before that day, on the register and who was not described in the register as a practising pharmacist shall be deemed not to be a pharmacist and the registrar shall, as soon as practicable after that day, remove the name of any such person from the register.

(3) The provisions of section twenty-two of the Pharmacy Act, 1964, as subsequently amended, do not apply to the removal of the name of any person from the register pursuant to subsection two of this section.

BY AUTHORITY
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969
[20c]

No. , 1969.

A BILL

To make further provisions regulating persons who carry on the business of a pharmacist; for this and other purposes to amend the Pharmacy Act, 1964, as subsequently amended; and for purposes connected therewith.

[MR JAGO—19 *March*, 1969.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Pharmacy (Amendment) Act, 1969". Short title and citation.

(2)

(2) The Pharmacy Act, 1964, as subsequently amended and as amended by this Act, may be cited as the Pharmacy Act, 1964–1969.

(3) Except where otherwise expressly provided, this Act shall commence upon the day on which the assent of Her Majesty to this Act is signified.

(4) The provisions of paragraph (i), subparagraph (ix) of paragraph (r) and subparagraph (iv) of paragraph (t) of subsection one of section three of this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette; and different days may be so appointed in respect of each of those provisions.

(5) Subparagraph (ii) of paragraph (j) of subsection one of section three of this Act shall commence upon the expiration of a period of three years that commences on the day on which the assent of Her Majesty to this Act is signified.

Reconstitution of Pharmacy Board of New South Wales.

2. (1) Upon the appointed day the Pharmacy Board of New South Wales shall be reconstituted and shall consist of nine members of whom—

(a) eight shall be the persons who immediately before the appointed day held office as members of that Board; and

(b) one shall be a pharmacist who is carrying on the business of a pharmacist in New South Wales but not in the County of Cumberland, the County of Northumberland or the City of Greater Wollongong and who shall be appointed by the Governor on the nomination of the persons who on the date of nomination hold office as members of that Board.

(2) The members of the Pharmacy Board of New South Wales holding office under subsection one of this section shall, subject to the Pharmacy Act, 1964, as subsequently amended, cease to hold office at the expiration of the day next preceding the prescribed day.

(3) Upon the prescribed day the Pharmacy Board of New South Wales shall be reconstituted and shall consist of nine members who shall be appointed in accordance with section four of the Pharmacy Act, 1964, as subsequently amended and as amended by this section.

(4) For the purposes only of the election and appointment of the additional member of the Pharmacy Board of New South Wales as reconstituted by subsection three of this section and of any matters necessary for or incidental to that election, appointment and reconstitution the provisions of subsection six of this section shall commence upon the appointed day and shall commence for all purposes on the prescribed day.

(5) In this section—

"appointed day" means a day to be appointed by the Governor and notified by proclamation published in the Gazette, being a day earlier than the prescribed day;

"prescribed day" means the day next following the expiration of the period for which the members of the Pharmacy Board who held office immediately before the day on which the assent of Her Majesty to this Act is signified, were appointed as members of that Board.

(6) The Pharmacy Act, 1964, as subsequently amended, is amended— Amendment of Act No. 48, 1964.

(a) (i) by omitting from subsection two of section four the word "eight" and by inserting in lieu thereof the word "nine"; Sec. 4. (Pharmacy Board of New South Wales.)

(ii)

(ii) by inserting next after paragraph (a) of the same subsection the following new paragraph :—

(aa) one shall be a pharmacist who is carrying on the business of pharmacist in New South Wales but not in the County of Cumberland, the County of Northumberland or the City of Greater Wollongong and who shall be elected by pharmacists in the prescribed manner;

(b) by inserting in subsection one of section five after the words "paragraph (a)" the words "or paragraph (aa)"; Sec. 5. (President of Board.)

(c) by inserting in paragraph (a) of subsection two of section seven after the words "paragraph (a)" the words "or paragraph (aa)". Sec. 7. (Filling of casual vacancies.)

3. (1) The Pharmacy Act, 1964, as subsequently amended, is further amended— Further amendment of Act No. 48, 1964.

(a) (i) by inserting in subsection four of section two after the word "thereof," the words "or a practising pharmacist"; Sec. 2. (Repeal and savings.)

(ii) by omitting from the same subsection the words "reference to a practising" and by inserting in lieu thereof the words "reference to a";

(b) by omitting from section three the definition of "Practising pharmacist"; Sec. 3. (Interpretation.)

(c) by inserting next after paragraph (d) of subsection one of section six the following new paragraph :— Sec. 6. (Vacation of office.)

(dd) he becomes bankrupt, compounds with his creditors or makes an assignment of his estate for their benefit;

(d)

(d) by omitting paragraph (e) of subsection two of section twelve; Sec. 12. (Register of Pharmacists.)

(e) by omitting section thirteen and by inserting in lieu thereof the following section :— Subst. sec. 13.

5 13. (1) Subject to section seventeen of this Act, a person shall be entitled to be registered as a pharmacist if he— Qualifications for registration—New South Wales graduates.

(a) has passed through a regular graded course in pharmacy of at least three years' duration 10 at the University of Sydney or at any other prescribed university in New South Wales and has received from that university after due examination a degree in pharmacy;

(b) satisfies the Board that he has served in the 15 Commonwealth of Australia for not less than the prescribed period as an assistant—

(i) in the business of a pharmacist keeping open shop for the purpose of dispensing and compounding medi- 20 cal prescriptions;

(ii) to a pharmacist in charge of a dispensary (not forming part of a business referred to in subparagraph (i) of this paragraph) in which 25 medicines are dispensed or compounded on the order or prescription of a medical practitioner;

(iii) to a pharmacist who is also the managing director or general 30 manager of a company where such assistantship is served in open shop kept by such company for the purpose of dispensing and compounding medical prescriptions; or

(iv) to a pharmacist in charge of a dispensary in an open shop kept by a company for the purpose of dispensing and compounding medicines; and

(c) has had experience in the dispensing and compounding of medical prescriptions that the Board regards as sufficient to enable him satisfactorily to carry on the business of a pharmacist in New South Wales.

(2) In paragraph (b) of subsection one of this section—

"pharmacist" includes a person registered under the law in force relating to the registration of pharmacists in any other State of the Commonwealth of Australia or in the Australian Capital Territory;

"prescribed period" means—

(a) in the case of a person who was awarded a pass with honours in the examination referred to in paragraph (a) of subsection one of this section —a period of six months or separate periods aggregating six months, each of which periods was not less than one month; and

(b) in the case of any other person— a period of twelve months or separate periods aggregating twelve months, each of which periods was not less than one month,

whether or not that period or any of those periods occurred before or after, or partly before and partly after, he received his degree in pharmacy.

(f)

(f) by omitting from section fourteen the words "and to be described in the register as a practising pharmacist"; Sec. 14. (Prescribed foreign qualifications for registration.)

(g) (i) by omitting from section fifteen the words "and to be described in the register as a practising pharmacist"; Sec. 15. (Other foreign qualifications for registration.)

(ii) by omitting paragraphs (b) and (c) of the same section and by inserting in lieu thereof the following paragraph :—

(b) has passed an examination in pharmacy, including such subjects as may be approved by the Board, before examiners appointed by the Senate of the University of Sydney or the governing body of any other prescribed university in New South Wales; and

(h) (i) by omitting from section sixteen the words "and to be described in the register as a practising pharmacist"; Sec. 16. (Qualifications for registration—New South Wales apprentices.)

(ii) by inserting in paragraph (d) of the same section after the word "examination" the words "held before the expiration of a period of three years commencing on the day on which the assent of Her Majesty to the Pharmacy (Amendment) Act, 1969, was signified";

(i) by inserting next after section seventeen the following new section :— New sec. 17A.

17A. (1) Where— Provisional registration.

(a) a person has applied to be registered;

(b)

(b) he would, if the Board were satisfied—

(i) that he has had the requisite experience referred to in paragraph (b) of subsection one of section thirteen, or in section fourteen, of this Act; and

(ii) as to the matters referred to in paragraph (a) of subsection one of section seventeen of this Act,

be entitled to be registered; and

(c) his application for registration has not been dealt with by the Board,

the president of the Board or, in his absence from the City of Sydney, any other member of the Board authorised generally by the Board to grant certificates of provisional registration, may, if he is satisfied as to the matters referred to in subparagraphs (i) and (ii) of paragraph (b) of this subsection, and on payment of the prescribed fee, grant to that person a certificate of provisional registration in the prescribed form.

(2) Where, on an application made by any person for a certificate of provisional registration under this subsection, the Board, the president of the Board or, in his absence from the City of Sydney, any other member of the Board authorised generally by the Board to grant certificates of provisional registration is satisfied—

(a) that that person is justly entitled to a prescribed qualification referred to in section fourteen of this Act that is to be conferred on or granted to him by a prescribed university, college, institute or other body, so referred to, that is in the Commonwealth of Australia;

(b)

(b) that he will in due course have that prescribed qualification conferred on or granted to him according to the practice of that prescribed university, college, institute or other body;

(c) that he has had the requisite experience referred to in section fourteen of this Act; and

(d) as to the matters referred to in paragraph (a) of subsection one of section seventeen of this Act,

the Board or if the Board has not dealt with his application under this subsection the president of the Board or other such member of the Board may, on payment of the prescribed fee, grant to that person a certificate of provisional registration in the prescribed form.

(3) Where a person has obtained a certificate of provisional registration he shall be deemed to be registered under this Act until—

(a) the date stated in the certificate; or

(b) such later date as may be fixed by the Board,

which date shall, in either case, be not later than three months after the granting of the certificate.

(4) The Board may, at any time before the date so stated or fixed, for such cause as to it seems proper, cancel a certificate of provisional registration without prejudice to the application of the holder of the certificate to be registered.

(5) Upon the cancellation of a certificate of provisional registration, the holder of the certificate shall thereupon cease to be deemed to be registered.

(6) If a person to whom a certificate of provisional registration has been granted becomes registered before the date stated or fixed pursuant to subsection three of this section in respect of that certificate, his registration shall, unless otherwise decided by the Board, date from the granting of the certificate.

(j) (i) by omitting from section eighteen the word "practising" wherever occurring; Sec. 18. (Apprentices to be allowed to attend lectures and examinations.)

(ii) by omitting the same section;

(k) by inserting in subsection four of section nineteen after the word "writing" the words "and if it is satisfied that he is of good character"; Sec. 19. (Roll fee.)

(l) (i) by omitting from subsection one of section twenty the words "or misdemeanour" wherever occurring and by inserting in lieu thereof the words ", misdemeanour, crime or offence"; Sec. 20. (Removal of name on account of misconduct.)

(ii) by omitting from the same subsection the words "his registration be suspended" and by inserting in lieu thereof the words "he be suspended from practice as a pharmacist";

(iii) by omitting paragraph (c) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—

(c) for, on behalf of or in association with some person, company, corporation or partnership carries on the business of a pharmacist or has a pecuniary interest, direct or indirect, in the business of a pharmacist, where the person, company, corporation or partnership is not entitled to carry on that business or to have that pecuniary interest.

(iv) by omitting from subsection three of the same section the words "In the case of a conviction referred to in paragraph (a) of subsection one of this section, the Board shall not" and by inserting in lieu thereof the words "The Board shall not, under this section,";

(v) by omitting paragraph (b) of the same subsection;

(vi) by inserting next after the same subsection the following new subsections :—

(3A) The Board may, after receiving a complaint in respect of a pharmacist, inform the pharmacist of the nature of the complaint and, by notice, invite the pharmacist to make, within such time as the Board specifies in the notice, such representations to the Board with respect to the complaint as he thinks fit.

(3B) The Board may, after receiving any such representations or after the expiry of the time specified in the notice, whichever first happens, dismiss the complaint or set it down for inquiry under this section.

(vii) by inserting at the end of the same section the following new subsection :—

(7) Where the name of a pharmacist has been removed from the register under this section, the pharmacist shall be deemed to be not registered as a pharmacist under this Act.

(m) by inserting next after section twenty the following new section :— New sec. 20A.

Refusal or suspension of registration or removal from register on ground of unfitness.

20A. (1) Notwithstanding any other provision of this Act where the Board is satisfied on such evidence as to it seems proper that any applicant for registration under this Act or any pharmacist is, by reason of infirmity, injury or illness, whether mental

mental or physical, unfit to carry on the business of a pharmacist the Board may refuse to register the applicant's name in the register or may order that the name of the pharmacist be removed from the register or that he be suspended from practice as a pharmacist for such period as may be specified in the order.

(2) For the purposes of subsection one of this section the Board—

(a) may require an applicant for registration or a pharmacist to undergo, at the expense of the Board, such medical examinations by such medical practitioners as may be specified by the Board; and

(b) may hold such inquiry as the Board thinks fit.

(3) A failure or refusal by any person required by the Board to undergo a medical examination in accordance with a requirement of the Board made under paragraph (a) of subsection two of this section may be regarded by the Board as evidence that that person is, by reason of infirmity, injury or illness, whether mental or physical, unfit to carry on the business of a pharmacist.

(4) Nothing in subsection one of this section affects the powers of the Board under any other provision of this Act to refuse an application for registration under this Act or to remove the name of a pharmacist from the register or to suspend a pharmacist from practice.

(5) Where the name of a pharmacist has been removed from the register under this section, the pharmacist shall be deemed to be not registered as a pharmacist under this Act.

(n) by omitting from subsection one of section twenty-one the words "sent by post" and by inserting in lieu thereof the words "served personally on the pharmacist, or is sent by registered post"; Sec. 21. (Effect of Board's order.)

5 (o) (i) by omitting from subsection one of section twenty-two the words "the suspension of his registration" and by inserting in lieu thereof the words "that he be suspended from practice as a pharmacist"; Sec. 22. (Appeal against orders of the Board.)

10 (ii) by omitting from the same subsection the words "his registration suspended" and by inserting in lieu thereof the words "he has been so suspended from practice";

(iii) by inserting at the end of the same section 15 the following new subsection :—

(4) The provisions of this section do not apply so as to enable an applicant for provisional registration or the holder of a certificate of provisional registration that has been can-20 celled to appeal against the refusal or cancellation of the certificate of provisional registration.

(p) (i) by omitting from section twenty-three the words "whose registration is suspended" and 25 by inserting in lieu thereof the words "who has been suspended from practice as pharmacist or whose certificate of provisional registration has been cancelled"; Sec. 23. (Surrender of certificates of registration.)

(ii) by inserting in the same section after the word 30 "suspension" the words "or cancellation";

(iii) by inserting in the same section after the word "registration" where secondly occurring the words "or provisional registration";

(iv) by omitting from the same section the words 35 "by the Board" and by inserting in lieu thereof the words "under this Act";

(q)

(q) by omitting from section twenty-four the words "the registration of any person has been suspended" and by inserting in lieu thereof the words "any person has been suspended from practice as a pharmacist"; Sec. 24. (Restoration of name to register.)

(r) (i) by omitting from subsection one of section twenty-five the word "practising"; Sec. 25. (Persons other than pharmacists not to have interest in pharmacists' businesses.)

(ii) by omitting from subparagraph (i) of paragraph (a) of subsection two of the same section the words "of his being" and by inserting in lieu thereof the words "only of his being an employee";

(iii) by omitting from paragraph (b) of the same subsection the words ", in lieu of that original open shop, with the approval in writing of the Minister in another open shop which is distant not more than ten miles from that original open shop" and by inserting in lieu thereof the words "in another open shop which is within the prescribed area in relation to that original open shop";

(iv) by omitting from subparagraph (i) of paragraph (d) of the same subsection the words ", in lieu of that original open shop";

(v) by omitting from paragraph (b) of the same subparagraph the words "which is distant not more than ten miles from that original open shop" and by inserting in lieu thereof the words "which is within the prescribed area in relation to that original open shop";

(vi) by omitting from paragraph (e) of the same subsection the words "more than one open shop in which he was immediately before the prescribed date carrying on such business from continuing after such commencement to carry

on

on such business in those open shops or, in lieu of any such open shop (in this paragraph referred to as an 'original open shop')" and by inserting in lieu thereof the words "an open shop (in this paragraph referred to as an 'original open shop'), being one of two or more open shops in which he was immediately before the prescribed date carrying on such business, from continuing after such commencement to carry on such business in that original open shop or";

(vii) by omitting from subparagraph (ii) of the same paragraph the words "which is distant not more than ten miles from that original open shop" and by inserting in lieu thereof the words "which is in the prescribed area in relation to that original open shop";

(viii) by inserting at the end of the same subsection the following new paragraph :—

In this subsection "the prescribed area", in relation to an original open shop, means—

(a) an area that is within ten miles of the original open shop; or

(b) where the original open shop was situated in the area that consists of the County of Cumberland, the County of Northumberland and that part of the City of Greater Wollongong that is not within the County of Cumberland—that area.

(ix) by inserting next after the same subsection the following new subsection :—

(2A) Where an application under paragraph (b), (d) or (e) of subsection two of this section is for the Minister's approval to

carry

carry on the business of a pharmacist in an open shop situated in that part of the prescribed area referred to in paragraph (b) of the definition of that expression in that subsection, the Minister shall not approve of the application unless the applicant for the approval has given to the Board at least three months' notice in the prescribed form of his intention to make the application.

(s) by inserting next after section twenty-five the following new section :— New sec. 25A.

25A. (1) Any provision in a bill of sale given in respect of the business of a pharmacist that— Certain provisions in certain bills of sale to be void.

(a) requires the grantor to purchase or otherwise obtain goods or services in connection with that business from the grantee or from any other specified person;

(b) gives to the grantee power to control the manner in which that business shall be carried on;

(c) gives to the grantee access to the books of account kept in respect of that business otherwise than for the purpose of determining whether or not the grantor is complying with the conditions of the bill of sale; or

(d) provides that the grantee shall receive any consideration that varies according to the profits or takings of that business,

shall be void.

(2) The provisions of subsection one of this section do not apply to a bill of sale granted before the day on which the assent of Her Majesty to the Pharmacy (Amendment) Act, 1969, was signified until the expiration of a period of five years commencing on that day.

(t)

(t) (i) by omitting from section twenty-six the word "practising" wherever occurring;

Sec. 26. (Pharmacists not to carry on business in more than one shop.)

(ii) by omitting from subsection two of the same section the words "three open shops" and by inserting in lieu thereof the words "such number of open shops as is equal to the number of partners in the partnership";

(iii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection :—

(3) Subsection one of this section shall not operate to prohibit—

(a) a pharmacist who, either alone or as a partner of any other person, was immediately before the commencement of this Act carrying on the business of a pharmacist in an open shop (in this paragraph referred to as an "original open shop"), being one of two or more open shops in which he was immediately before the prescribed date carrying on such business, from continuing after such commencement to carry on (whether as owner or otherwise) such business in that original open shop or—

(i) in another open shop in which he was immediately before such commencement entitled under the Pharmacy Act, 1897–1957, to carry on, and was carrying on, such business; or

(ii) with the approval in writing of the Minister in another open shop which is in the prescribed area in relation to that open shop; or

(b) two pharmacists in partnership together who, by reason of subsection two of this section as in force immediately before the day on which the assent of Her Majesty to the Pharmacy (Amendment) Act, 1969, was signified, were entitled to carry on the business of pharmacist in an open shop (in this paragraph referred to as an "original open shop"), being one of three open shops in which they were immediately before that day carrying on such business, from continuing as partners in that partnership after that day to carry on such business in that open shop or with the approval in writing of the Minister in another open shop which is in the prescribed area in relation to that original open shop.

In this subsection—

"prescribed date" means the twenty-seventh day of November, one thousand nine hundred and forty;

"the prescribed area", in relation to an original open shop, means—

(a) an area that is within ten miles of the original open shop; or

(b) where the original open shop was situated in the area that consists of the County of Cumberland, the County of Northumberland and that part of the City of Greater Wollongong that is not within the County of Cumberland—that area.

(iv) by inserting at the end of the same section the following new subsection :—

(5) Where an application under subsection three of this section is for the Minister's approval to carry on the business of a pharmacist in an open shop situated in that part of the prescribed area referred to in paragraph (b) of the definition of that expression in that subsection, the Minister shall not approve of the application unless the applicant for the approval has given to the Board at least three months' notice in the prescribed form of his intention to make the application.

(u) (i) by omitting from section twenty-seven the word "practising" wherever occurring;

Sec. 27. (Pharmacist to be in charge of every open shop and dispensary.)

(ii) by inserting at the end of the same section the following new subsection :—

(5) Where the Board has made an order under this Act that a pharmacist be suspended from practice as a pharmacist for a specified period, that pharmacist shall, during that period, be deemed not to be a pharmacist for the purposes of subsection one of this section.

(v) (i) by omitting from section twenty-eight the word "practising" wherever occurring;

Sec. 28. (Medicines to be dispensed only by or under the superintendence of pharmacists.)

(ii) by inserting at the end of the same section the following new subsection :—

(2) Where the Board has made an order under this Act that a pharmacist be suspended from practice as a pharmacist for a specified period, that pharmacist shall, during that period, be deemed not to be a pharmacist for the purposes of subsection one of this section.

(w) by inserting in section twenty-nine after the words "deceased person" where thirdly occurring the words ", or from having, as such executor, administrator, trustee or person entitled, a pecuniary interest, direct or indirect, in such business,"; Sec. 29. (Business of deceased pharmacist may be carried on temporarily.)

(x) (i) by omitting from subsection one of section thirty the words "or, in the case of a practising pharmacist" where firstly occurring; Sec. 30. (Pharmacist to use only registered qualifications.)

(ii) by omitting from paragraph (b) of the same subsection the words "in the case of a pharmacist, other than a practising pharmacist, the description of pharmacist, or in the case of a practising pharmacist";

(iii) by omitting from subsection two of the same section the words "any person other than a practising pharmacist who poses as a practising pharmacist or" and by inserting in lieu thereof the words "poses as or";

(y) by inserting in section thirty-three after the word "registered" the words "or to be granted a certificate of provisional registration"; Sec. 33. (False entries in the register.)

(z) by inserting in subsection one of section thirty-four after the word "twenty" the words "or 20A"; Sec. 34. (Board may summon and examine witnesses.)

(aa) (i) by omitting from paragraph (b) of section thirty-seven the word "suspended," and by inserting in lieu thereof the words "suspended; or"; Sec. 37. (Evidence.)

(ii) by inserting next after the same paragraph the following new paragraphs :—

(c) that any person was or was not on any date or during any period mentioned in the certificate the holder of a certificate or provisional registration; or

(d) that on any date mentioned in the certificate the certificate of provisional registration of any person was cancelled.

(2) Upon the day upon which the assent of Her Majesty to this Act is signified, any person whose name was, immediately before that day, on the register and who was not described in the register as a practising pharmacist shall be deemed not to be a pharmacist and the registrar shall, as soon as practicable after that day, remove the name of any such person from the register.

(3) The provisions of section twenty-two of the Pharmacy Act, 1964, as subsequently amended, do not apply to the removal of the name of any person from the register pursuant to subsection two of this section.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969
[20c]

PROOF

PHARMACY (AMENDMENT) BILL, 1969

EXPLANATORY NOTE

THE objects of this Bill are—

(a) to reconstitute the Pharmacy Board of New South Wales by enlarging it from eight to nine members, the additional member being a pharmacist carrying on the business of a pharmacist in New South Wales but not in the County of Cumberland, the County of Northumberland or the City of Greater Wollongong;

(b) to remove the present distinction between pharmacists and practising pharmacists so that only persons with the appropriate academic qualifications and experience will be eligible to be registered as pharmacists;

(c) to enable persons seeking registration as pharmacists to obtain the practical experience required of them either before or after or partly before and partly after the time they obtain their academic qualifications;

(d) to provide that pharmacy apprentices (all of whom must have commenced their apprenticeship before 12th June, 1959) must pass their final examinations within three years of the date of assent to this Bill;

(e) to provide for the issue of certificates of provisional registration of pharmacists;

(f) to enable the Pharmacy Board of New South Wales to refuse to restore the name of a person removed from the Register of Pharmacists for failure to pay the annual roll fee if the applicant for restoration is not of good character;

(g) to enable the Board to remove the name of a pharmacist from the Register or suspend a pharmacist from practice if he is convicted of any crime or offence, as well as, as at present, if he has been convicted of a felony or misdemeanour;

(h) to extend the powers of the Board to refrain from removing a pharmacist's name from the Register or suspending him from practice if the Board is of the opinion that the public interest does not warrant its doing so;

(i) to enable the Board to dismiss a complaint against a pharmacist without the necessity for holding an enquiry;

(j) to empower the Board to remove the name of a pharmacist from the Register or suspend him from practice if it is satisfied that he is, by reason of infirmity, injury or illness, unfit to carry on the business of a pharmacist;

(k) to enable certain pharmacists, persons, companies and associations of persons, whose right to continue to carry on the business of a pharmacist was preserved by the Pharmacy Act, 1964, but only at or within ten miles of any original open shop conducted by them, to carry on that business anywhere in the area that consists of the County of Cumberland, the County of Northumberland and the City of Greater Wollongong, if the original open shop in which they were carrying on that business was in that area;

(l) to provide that certain provisions in bills of sale given in respect of the business of a pharmacist shall be void;

(m) to restrict to two the number of pharmacy businesses that two pharmacists in partnership may conduct;

(n) to prohibit a pharmacist, whose right to practise has been suspended, from being in charge of the business of a pharmacist or a dispensary or from superintending the dispensing or the compounding of medicines during the period of his suspension;

(o) to make other provisions of a minor or consequential nature.

PROOF

No. , 1969.

A BILL

To make further provisions regulating persons who carry on the business of a pharmacist; for this and other purposes to amend the Pharmacy Act, 1964, as subsequently amended; and for purposes connected therewith.

[MR JAGO—19 *March*, 1969.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Pharmacy (Amendment) Act, 1969". Short title and citation.

(2)

(2) The Pharmacy Act, 1964, as subsequently amended and as amended by this Act, may be cited as the Pharmacy Act, 1964–1969.

(3) Except where otherwise expressly provided, this Act shall commence upon the day on which the assent of Her Majesty to this Act is signified.

(4) The provisions of paragraph (i), subparagraph (ix) of paragraph (r) and subparagraph (iv) of paragraph (t) of subsection one of section three of this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette; and different days may be so appointed in respect of each of those provisions.

(5) Subparagraph (ii) of paragraph (j) of subsection one of section three of this Act shall commence upon the expiration of a period of three years that commences on the day on which the assent of Her Majesty to this Act is signified.

Reconstitution of Pharmacy Board of New South Wales.

2. (1) Upon the appointed day the Pharmacy Board of New South Wales shall be reconstituted and shall consist of nine members of whom—

(a) eight shall be the persons who immediately before the appointed day held office as members of that Board; and

(b) one shall be a pharmacist who is carrying on the business of a pharmacist in New South Wales but not in the County of Cumberland, the County of Northumberland or the City of Greater Wollongong and who shall be appointed by the Governor on the nomination of the persons who on the date of nomination hold office as members of that Board.

(2)

(2) The members of the Pharmacy Board of New South Wales holding office under subsection one of this section shall, subject to the Pharmacy Act, 1964, as subsequently amended, cease to hold office at the expiration of the day next preceding the prescribed day.

(3) Upon the prescribed day the Pharmacy Board of New South Wales shall be reconstituted and shall consist of nine members who shall be appointed in accordance with section four of the Pharmacy Act, 1964, as subsequently amended and as amended by this section.

(4) For the purposes only of the election and appointment of the additional member of the Pharmacy Board of New South Wales as reconstituted by subsection three of this section and of any matters necessary for or incidental to that election, appointment and reconstitution the provisions of subsection six of this section shall commence upon the appointed day and shall commence for all purposes on the prescribed day.

(5) In this section—

"appointed day" means a day to be appointed by the Governor and notified by proclamation published in the Gazette, being a day earlier than the prescribed day;

"prescribed day" means the day next following the expiration of the period for which the members of the Pharmacy Board who held office immediately before the day on which the assent of Her Majesty to this Act is signified, were appointed as members of that Board.

(6) The Pharmacy Act, 1964, as subsequently amended, is amended— Amendment of Act No. 48, 1964.

(a) (i) by omitting from subsection two of section four the word "eight" and by inserting in lieu thereof the word "nine"; Sec. 4. (Pharmacy Board of New South Wales.)

(ii)

(ii) by inserting next after paragraph (a) of the same subsection the following new paragraph :—

(aa) one shall be a pharmacist who is carrying on the business of pharmacist in New South Wales but not in the County of Cumberland, the County of Northumberland or the City of Greater Wollongong and who shall be elected by pharmacists in the prescribed manner;

(b) by inserting in subsection one of section five after the words "paragraph (a)" the words "or paragraph (aa)"; Sec. 5. (President of Board.)

(c) by inserting in paragraph (a) of subsection two of section seven after the words "paragraph (a)" the words "or paragraph (aa)". Sec. 7. (Filling of casual vacancies.)

3. (1) The Pharmacy Act, 1964, as subsequently amended, is further amended— Further amendment of Act No. 48, 1964.

(a) (i) by inserting in subsection four of section two after the word "thereof," the words "or a practising pharmacist"; Sec. 2. (Repeal and savings.)

(ii) by omitting from the same subsection the words "reference to a practising" and by inserting in lieu thereof the words "reference to a";

(b) by omitting from section three the definition of "Practising pharmacist"; Sec. 3. (Interpretation.)

(c) by inserting next after paragraph (d) of subsection one of section six the following new paragraph :— Sec. 6. (Vacation of office.)

(dd) he becomes bankrupt, compounds with his creditors or makes an assignment of his estate for their benefit;

(d)

(d) by omitting paragraph (e) of subsection two of section twelve; Sec. 12. (Register of Pharmacists.)

(e) by omitting section thirteen and by inserting in lieu thereof the following section :— Subst. sec. 13.

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13. (1) Subject to section seventeen of this Act, a person shall be entitled to be registered as a pharmacist if he— Qualifications for registration—New South Wales graduates.

(a) has passed through a regular graded course in pharmacy of at least three years' duration at the University of Sydney or at any other prescribed university in New South Wales and has received from that university after due examination a degree in pharmacy;

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(b) satisfies the Board that he has served in the Commonwealth of Australia for not less than the prescribed period as an assistant—

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(i) in the business of a pharmacist keeping open shop for the purpose of dispensing and compounding medical prescriptions;

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(ii) to a pharmacist in charge of a dispensary (not forming part of a business referred to in subparagraph (i) of this paragraph) in which medicines are dispensed or compounded on the order or prescription of a medical practitioner;

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(iii) to a pharmacist who is also the managing director or general manager of a company where such assistantship is served in open shop kept by such company for the purpose of dispensing and compounding medical prescriptions; or

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(iv) to a pharmacist in charge of a dispensary in an open shop kept by a company for the purpose of dispensing and compounding medicines; and

(c) has had experience in the dispensing and compounding of medical prescriptions that the Board regards as sufficient to enable him satisfactorily to carry on the business of a pharmacist in New South Wales.

(2) In paragraph (b) of subsection one of this section—

"pharmacist" includes a person registered under the law in force relating to the registration of pharmacists in any other State of the Commonwealth of Australia or in the Australian Capital Territory;

"prescribed period" means—

(a) in the case of a person who was awarded a pass with honours in the examination referred to in paragraph (a) of subsection one of this section —a period of six months or separate periods aggregating six months, each of which periods was not less than one month; and

(b) in the case of any other person— a period of twelve months or separate periods aggregating twelve months, each of which periods was not less than one month,

whether or not that period or any of those periods occurred before or after, or partly before and partly after, he received his degree in pharmacy.

(f)

(f) by omitting from section fourteen the words "and to be described in the register as a practising pharmacist"; Sec. 14. (Prescribed foreign qualifications for registration.)

(g) (i) by omitting from section fifteen the words "and to be described in the register as a practising pharmacist"; Sec. 15. (Other foreign qualifications for registration.)

(ii) by omitting paragraphs (b) and (c) of the same section and by inserting in lieu thereof the following paragraph :—

(b) has passed an examination in pharmacy, including such subjects as may be approved by the Board, before examiners appointed by the Senate of the University of Sydney or the governing body of any other prescribed university in New South Wales; and

(h) (i) by omitting from section sixteen the words "and to be described in the register as a practising pharmacist"; Sec. 16. (Qualifications for registration—New South Wales apprentices.)

(ii) by inserting in paragraph (d) of the same section after the word "examination" the words "held before the expiration of a period of three years commencing on the day on which the assent of Her Majesty to the Pharmacy (Amendment) Act, 1969, was signified";

(i) by inserting next after section seventeen the following new section :— New sec. 17A.

17A. (1) Where— Provisional registration.

(a) a person has applied to be registered;

(b)

(b) he would, if the Board were satisfied—

(i) that he has had the requisite experience referred to in paragraph (b) of subsection one of section thirteen, or in section fourteen, of this Act; and

(ii) as to the matters referred to in paragraph (a) of subsection one of section seventeen of this Act,

be entitled to be registered; and

(c) his application for registration has not been dealt with by the Board,

the president of the Board or, in his absence from the City of Sydney, any other member of the Board authorised generally by the Board to grant certificates of provisional registration, may, if he is satisfied as to the matters referred to in subparagraphs (i) and (ii) of paragraph (b) of this subsection, and on payment of the prescribed fee, grant to that person a certificate of provisional registration in the prescribed form.

(2) Where, on an application made by any person for a certificate of provisional registration under this subsection, the Board, the president of the Board or, in his absence from the City of Sydney, any other member of the Board authorised generally by the Board to grant certificates of provisional registration is satisfied—

(a) that that person is justly entitled to a prescribed qualification referred to in section fourteen of this Act that is to be conferred on or granted to him by a prescribed university, college, institute or other body, so referred to, that is in the Commonwealth of Australia;

(b)

(b) that he will in due course have that prescribed qualification conferred on or granted to him according to the practice of that prescribed university, college, institute or other body;

(c) that he has had the requisite experience referred to in section fourteen of this Act; and

(d) as to the matters referred to in paragraph (a) of subsection one of section seventeen of this Act,

the Board or if the Board has not dealt with his application under this subsection the president of the Board or other such member of the Board may, on payment of the prescribed fee, grant to that person a certificate of provisional registration in the prescribed form.

(3) Where a person has obtained a certificate of provisional registration he shall be deemed to be registered under this Act until—

(a) the date stated in the certificate; or

(b) such later date as may be fixed by the Board,

which date shall, in either case, be not later than three months after the granting of the certificate.

(4) The Board may, at any time before the date so stated or fixed, for such cause as to it seems proper, cancel a certificate of provisional registration without prejudice to the application of the holder of the certificate to be registered.

(5) Upon the cancellation of a certificate of provisional registration, the holder of the certificate shall thereupon cease to be deemed to be registered.

(6) If a person to whom a certificate of provisional registration has been granted becomes registered before the date stated or fixed pursuant to subsection three of this section in respect of that certificate, his registration shall, unless otherwise decided by the Board, date from the granting of the certificate.

(j) (i) by omitting from section eighteen the word "practising" wherever occurring; Sec. 18. (Apprentices to be allowed to attend lectures and examinations.)

(ii) by omitting the same section;

(k) by inserting in subsection four of section nineteen after the word "writing" the words "and if it is satisfied that he is of good character"; Sec. 19. (Roll fee.)

(l) (i) by omitting from subsection one of section twenty the words "or misdemeanour" wherever occurring and by inserting in lieu thereof the words ", misdemeanour, crime or offence"; Sec. 20. (Removal of name on account of misconduct.)

(ii) by omitting from the same subsection the words "his registration be suspended" and by inserting in lieu thereof the words "he be suspended from practice as a pharmacist";

(iii) by omitting paragraph (c) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—

(c) for, on behalf of or in association with some person, company, corporation or partnership carries on the business of a pharmacist or has a pecuniary interest, direct or indirect, in the business of a pharmacist, where the person, company, corporation or partnership is not entitled to carry on that business or to have that pecuniary interest.

(iv) by omitting from subsection three of the same section the words "In the case of a conviction referred to in paragraph (a) of subsection one of this section, the Board shall not" and by inserting in lieu thereof the words "The Board shall not, under this section,";

(v) by omitting paragraph (b) of the same subsection;

(vi) by inserting next after the same subsection the following new subsections :—

(3A) The Board may, after receiving a complaint in respect of a pharmacist, inform the pharmacist of the nature of the complaint and, by notice, invite the pharmacist to make, within such time as the Board specifies in the notice, such representations to the Board with respect to the complaint as he thinks fit.

(3B) The Board may, after receiving any such representations or after the expiry of the time specified in the notice, whichever first happens, dismiss the complaint or set it down for inquiry under this section.

(vii) by inserting at the end of the same section the following new subsection :—

(7) Where the name of a pharmacist has been removed from the register under this section, the pharmacist shall be deemed to be not registered as a pharmacist under this Act.

(m) by inserting next after section twenty the following new section :— New sec. 20A.

Refusal or suspension of registration or removal from register on ground of unfitness.

20A. (1) Notwithstanding any other provision of this Act where the Board is satisfied on such evidence as to it seems proper that any applicant for registration under this Act or any pharmacist is, by reason of infirmity, injury or illness, whether mental

mental or physical, unfit to carry on the business of a pharmacist the Board may refuse to register the applicant's name in the register or may order that the name of the pharmacist be removed from the register or that he be suspended from practice as a pharmacist for such period as may be specified in the order.

(2) For the purposes of subsection one of this section the Board—

(a) may require an applicant for registration or a pharmacist to undergo, at the expense of the Board, such medical examinations by such medical practitioners as may be specified by the Board; and

(b) may hold such inquiry as the Board thinks fit.

(3) A failure or refusal by any person required by the Board to undergo a medical examination in accordance with a requirement of the Board made under paragraph (a) of subsection two of this section may be regarded by the Board as evidence that that person is, by reason of infirmity, injury or illness, whether mental or physical, unfit to carry on the business of a pharmacist.

(4) Nothing in subsection one of this section affects the powers of the Board under any other provision of this Act to refuse an application for registration under this Act or to remove the name of a pharmacist from the register or to suspend a pharmacist from practice.

(5) Where the name of a pharmacist has been removed from the register under this section, the pharmacist shall be deemed to be not registered as a pharmacist under this Act.

(n) by omitting from subsection one of section twenty-one the words "sent by post" and by inserting in lieu thereof the words "served personally on the pharmacist, or is sent by registered post"; Sec. 21. (Effect of Board's order.)

5 (o) (i) by omitting from subsection one of section twenty-two the words "the suspension of his registration" and by inserting in lieu thereof the words "that he be suspended from practice as a pharmacist"; Sec. 22. (Appeal against orders of the Board.)

10 (ii) by omitting from the same subsection the words "his registration suspended" and by inserting in lieu thereof the words "he has been so suspended from practice";

(iii) by inserting at the end of the same section
15 the following new subsection :—

(4) The provisions of this section do not apply so as to enable an applicant for provisional registration or the holder of a certificate of provisional registration that has been can-
20 celled to appeal against the refusal or cancellation of the certificate of provisional registration.

(p) (i) by omitting from section twenty-three the words "whose registration is suspended" and
25 by inserting in lieu thereof the words "who has been suspended from practice as pharmacist or whose certificate of provisional registration has been cancelled"; Sec. 23. (Surrender of certificates of registration.)

(ii) by inserting in the same section after the word
30 "suspension" the words "or cancellation";

(iii) by inserting in the same section after the word "registration" where secondly occurring the words "or provisional registration";

(iv) by omitting from the same section the words
35 "by the Board" and by inserting in lieu thereof the words "under this Act";

(q)

(q) by omitting from section twenty-four the words "the registration of any person has been suspended" and by inserting in lieu thereof the words "any person has been suspended from practice as a pharmacist"; Sec. 24. (Restoration of name to register.)

(r) (i) by omitting from subsection one of section twenty-five the word "practising"; Sec. 25. (Persons other than pharmacists not to have interest in pharmacists' businesses.)

(ii) by omitting from subparagraph (i) of paragraph (a) of subsection two of the same section the words "of his being" and by inserting in lieu thereof the words "only of his being an employee";

(iii) by omitting from paragraph (b) of the same subsection the words ", in lieu of that original open shop, with the approval in writing of the Minister in another open shop which is distant not more than ten miles from that original open shop" and by inserting in lieu thereof the words "in another open shop which is within the prescribed area in relation to that original open shop";

(iv) by omitting from subparagraph (i) of paragraph (d) of the same subsection the words ", in lieu of that original open shop";

(v) by omitting from paragraph (b) of the same subparagraph the words "which is distant not more than ten miles from that original open shop" and by inserting in lieu thereof the words "which is within the prescribed area in relation to that original open shop";

(vi) by omitting from paragraph (e) of the same subsection the words "more than one open shop in which he was immediately before the prescribed date carrying on such business from continuing after such commencement to carry

on

on such business in those open shops or, in lieu of any such open shop (in this paragraph referred to as an 'original open shop')" and by inserting in lieu thereof the words "an open shop (in this paragraph referred to as an 'original open shop'), being one of two or more open shops in which he was immediately before the prescribed date carrying on such business, from continuing after such commencement to carry on such business in that original open shop or";

(vii) by omitting from subparagraph (ii) of the same paragraph the words "which is distant not more than ten miles from that original open shop" and by inserting in lieu thereof the words "which is in the prescribed area in relation to that original open shop";

(viii) by inserting at the end of the same subsection the following new paragraph :—

In this subsection "the prescribed area", in relation to an original open shop, means—

(a) an area that is within ten miles of the original open shop; or

(b) where the original open shop was situated in the area that consists of the County of Cumberland, the County of Northumberland and that part of the City of Greater Wollongong that is not within the County of Cumberland—that area.

(ix) by inserting next after the same subsection the following new subsection :—

(2A) Where an application under paragraph (b), (d) or (e) of subsection two of this section is for the Minister's approval to

carry

carry on the business of a pharmacist in an open shop situated in that part of the prescribed area referred to in paragraph (b) of the definition of that expression in that subsection, the Minister shall not approve of the application unless the applicant for the approval has given to the Board at least three months' notice in the prescribed form of his intention to make the application.

(s) by inserting next after section twenty-five the following new section :— New sec. 25A.

Certain provisions in certain bills of sale to be void.

25A. (1) Any provision in a bill of sale given in respect of the business of a pharmacist that—

(a) requires the grantor to purchase or otherwise obtain goods or services in connection with that business from the grantee or from any other specified person;

(b) gives to the grantee power to control the manner in which that business shall be carried on;

(c) gives to the grantee access to the books of account kept in respect of that business otherwise than for the purpose of determining whether or not the grantor is complying with the conditions of the bill of sale; or

(d) provides that the grantee shall receive any consideration that varies according to the profits or takings of that business,

shall be void.

(2) The provisions of subsection one of this section do not apply to a bill of sale granted before the day on which the assent of Her Majesty to the Pharmacy (Amendment) Act, 1969, was signified until the expiration of a period of five years commencing on that day.

(t)

(t) (i) by omitting from section twenty-six the word "practising" wherever occurring;

Sec. 26. (Pharmacists not to carry on business in more than one shop.)

(ii) by omitting from subsection two of the same section the words "three open shops" and by inserting in lieu thereof the words "such number of open shops as is equal to the number of partners in the partnership";

(iii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection :—

(3) Subsection one of this section shall not operate to prohibit—

(a) a pharmacist who, either alone or as a partner of any other person, was immediately before the commencement of this Act carrying on the business of a pharmacist in an open shop (in this paragraph referred to as an "original open shop"), being one of two or more open shops in which he was immediately before the prescribed date carrying on such business, from continuing after such commencement to carry on (whether as owner or otherwise) such business in that original open shop or—

(i) in another open shop in which he was immediately before such commencement entitled under the Pharmacy Act, 1897–1957, to carry on, and was carrying on, such business; or

(ii) with the approval in writing of the Minister in another open shop which is in the prescribed area in relation to that open shop; or

(b) two pharmacists in partnership together who, by reason of subsection two of this section as in force immediately before the day on which the assent of Her Majesty to the Pharmacy (Amendment) Act, 1969, was signified, were entitled to carry on the business of pharmacist in an open shop (in this paragraph referred to as an "original open shop"), being one of three open shops in which they were immediately before that day carrying on such business, from continuing as partners in that partnership after that day to carry on such business in that open shop or with the approval in writing of the Minister in another open shop which is in the prescribed area in relation to that original open shop.

In this subsection—

"prescribed date" means the twenty-seventh day of November, one thousand nine hundred and forty;

"the prescribed area", in relation to an original open shop, means—

(a) an area that is within ten miles of the original open shop; or

(b) where the original open shop was situated in the area that consists of the County of Cumberland, the County of Northumberland and that part of the City of Greater Wollongong that is not within the County of Cumberland—that area.

(iv) by inserting at the end of the same section the following new subsection :—

(5) Where an application under subsection three of this section is for the Minister's approval to carry on the business of a pharmacist in an open shop situated in that part of the prescribed area referred to in paragraph (b) of the definition of that expression in that subsection, the Minister shall not approve of the application unless the applicant for the approval has given to the Board at least three months' notice in the prescribed form of his intention to make the application.

(u) (i) by omitting from section twenty-seven the word "practising" wherever occurring;

Sec. 27. (Pharmacist to be in charge of every open shop and dispensary.)

(ii) by inserting at the end of the same section the following new subsection :—

(5) Where the Board has made an order under this Act that a pharmacist be suspended from practice as a pharmacist for a specified period, that pharmacist shall, during that period, be deemed not to be a pharmacist for the purposes of subsection one of this section.

(v) (i) by omitting from section twenty-eight the word "practising" wherever occurring;

Sec. 28. (Medicines to be dispensed only by or under the superintendence of pharmacists.)

(ii) by inserting at the end of the same section the following new subsection :—

(2) Where the Board has made an order under this Act that a pharmacist be suspended from practice as a pharmacist for a specified period, that pharmacist shall, during that period, be deemed not to be a pharmacist for the purposes of subsection one of this section.

(w) by inserting in section twenty-nine after the words "deceased person" where thirdly occurring the words ", or from having, as such executor, administrator, trustee or person entitled, a pecuniary interest, direct or indirect, in such business,"; Sec. 29. (Business of deceased pharmacist may be carried on temporarily.)

(x) (i) by omitting from subsection one of section thirty the words "or, in the case of a practising pharmacist" where firstly occurring; Sec. 30. (Pharmacist to use only registered qualifications.)

(ii) by omitting from paragraph (b) of the same subsection the words "in the case of a pharmacist, other than a practising pharmacist, the description of pharmacist, or in the case of a practising pharmacist";

(iii) by omitting from subsection two of the same section the words "any person other than a practising pharmacist who poses as a practising pharmacist or" and by inserting in lieu thereof the words "poses as or";

(y) by inserting in section thirty-three after the word "registered" the words "or to be granted a certificate of provisional registration"; Sec. 33. (False entries in the register.)

(z) by inserting in subsection one of section thirty-four after the word "twenty" the words "or 20A"; Sec. 34. (Board may summon and examine witnesses.)

(aa) (i) by omitting from paragraph (b) of section thirty-seven the word "suspended," and by inserting in lieu thereof the words "suspended; or"; Sec. 37. (Evidence.)

(ii) by inserting next after the same paragraph the following new paragraphs :—

(c) that any person was or was not on any date or during any period mentioned in the certificate the holder of a certificate or provisional registration; or

(d) that on any date mentioned in the certificate the certificate of provisional registration of any person was cancelled.

(2) Upon the day upon which the assent of Her Majesty to this Act is signified, any person whose name was, immediately before that day, on the register and who was not described in the register as a practising pharmacist shall be deemed not to be a pharmacist and the registrar shall, as soon as practicable after that day, remove the name of any such person from the register.

(3) The provisions of section twenty-two of the Pharmacy Act, 1964, as subsequently amended, do not apply to the removal of the name of any person from the register pursuant to subsection two of this section.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969

New South Wales

ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

* *

Act No. 44, 1969.

An Act to make further provisions regulating persons who carry on the business of a pharmacist; for this and other purposes to amend the Pharmacy Act, 1964, as subsequently amended; and for purposes connected therewith. [Assented to, 17th April, 1969.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Pharmacy (Amendment) Act, 1969". Short title and citation.

(2)

P 74877—A [20c]

(2) The Pharmacy Act, 1964, as subsequently amended and as amended by this Act, may be cited as the Pharmacy Act, 1964–1969.

(3) Except where otherwise expressly provided, this Act shall commence upon the day on which the assent of Her Majesty to this Act is signified.

(4) The provisions of paragraph (i), subparagraph (ix) of paragraph (r) and subparagraph (iv) of paragraph (t) of subsection one of section three of this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette; and different days may be so appointed in respect of each of those provisions.

(5) Subparagraph (ii) of paragraph (j) of subsection one of section three of this Act shall commence upon the expiration of a period of three years that commences on the day on which the assent of Her Majesty to this Act is signified.

Reconstitution of Pharmacy Board of New South Wales.

2. (1) Upon the appointed day the Pharmacy Board of New South Wales shall be reconstituted and shall consist of nine members of whom—

(a) eight shall be the persons who immediately before the appointed day held office as members of that Board; and

(b) one shall be a pharmacist who is carrying on the business of a pharmacist in New South Wales but not in the County of Cumberland, the County of Northumberland or the City of Greater Wollongong and who shall be appointed by the Governor on the nomination of the persons who on the date of nomination hold office as members of that Board.

(2)

(2) The members of the Pharmacy Board of New South Wales holding office under subsection one of this section shall, subject to the Pharmacy Act, 1964, as subsequently amended, cease to hold office at the expiration of the day next preceding the prescribed day.

(3) Upon the prescribed day the Pharmacy Board of New South Wales shall be reconstituted and shall consist of nine members who shall be appointed in accordance with section four of the Pharmacy Act, 1964, as subsequently amended and as amended by this section.

(4) For the purposes only of the election and appointment of the additional member of the Pharmacy Board of New South Wales as reconstituted by subsection three of this section and of any matters necessary for or incidental to that election, appointment and reconstitution the provisions of subsection six of this section shall commence upon the appointed day and shall commence for all purposes on the prescribed day.

(5) In this section—

"appointed day" means a day to be appointed by the Governor and notified by proclamation published in the Gazette, being a day earlier than the prescribed day;

"prescribed day" means the day next following the expiration of the period for which the members of the Pharmacy Board who held office immediately before the day on which the assent of Her Majesty to this Act is signified, were appointed as members of that Board.

(6) The Pharmacy Act, 1964, as subsequently amended, is amended— **Amendment of Act No. 48, 1964.**

(a) (i) by omitting from subsection two of section four the word "eight" and by inserting in lieu thereof the word "nine"; **Sec. 4. (Pharmacy Board of New South Wales.)**

(ii)

(ii) by inserting next after paragraph (a) of the same subsection the following new paragraph :—

(aa) one shall be a pharmacist who is carrying on the business of pharmacist in New South Wales but not in the County of Cumberland, the County of Northumberland or the City of Greater Wollongong and who shall be elected by pharmacists in the prescribed manner;

Sec. 5. (President of Board.)

(b) by inserting in subsection one of section five after the words "paragraph (a)" the words "or paragraph (aa)";

Sec. 7. (Filling of casual vacancies.)

(c) by inserting in paragraph (a) of subsection two of section seven after the words "paragraph (a)" the words "or paragraph (aa)".

Further amendment of Act No. 48, 1964.

3. (1) The Pharmacy Act, 1964, as subsequently amended, is further amended—

Sec. 2. (Repeal and savings.)

(a) (i) by inserting in subsection four of section two after the word "thereof," the words "or a practising pharmacist";

(ii) by omitting from the same subsection the words "reference to a practising" and by inserting in lieu thereof the words "reference to a";

Sec. 3. (Interpretation.)

(b) by omitting from section three the definition of "Practising pharmacist";

Sec. 6. (Vacation of office.)

(c) by inserting next after paragraph (d) of subsection one of section six the following new paragraph :—

(dd) he becomes bankrupt, compounds with his creditors or makes an assignment of his estate for their benefit;

(d)

(d) by omitting paragraph (e) of subsection two of section twelve; Sec. 12. (Register of Pharmacists.)

(e) by omitting section thirteen and by inserting in lieu thereof the following section :— Subst. sec. 13.

13. (1) Subject to section seventeen of this Act, a person shall be entitled to be registered as a pharmacist if he— Qualifications for registration—New South Wales graduates.

(a) has passed through a regular graded course in pharmacy of at least three years' duration at the University of Sydney or at any other prescribed university in New South Wales and has received from that university after due examination a degree in pharmacy;

(b) satisfies the Board that he has served in the Commonwealth of Australia for not less than the prescribed period as an assistant—

(i) in the business of a pharmacist keeping open shop for the purpose of dispensing and compounding medical prescriptions;

(ii) to a pharmacist in charge of a dispensary (not forming part of a business referred to in subparagraph (i) of this paragraph) in which medicines are dispensed or compounded on the order or prescription of a medical practitioner;

(iii) to a pharmacist who is also the managing director or general manager of a company where such assistantship is served in open shop kept by such company for the purpose of dispensing and compounding medical prescriptions; or

(iv)

(iv) to a pharmacist in charge of a dispensary in an open shop kept by a company for the purpose of dispensing and compounding medicines; and

(c) has had experience in the dispensing and compounding of medical prescriptions that the Board regards as sufficient to enable him satisfactorily to carry on the business of a pharmacist in New South Wales.

(2) In paragraph (b) of subsection one of this section—

"pharmacist" includes a person registered under the law in force relating to the registration of pharmacists in any other State of the Commonwealth of Australia or in the Australian Capital Territory;

"prescribed period" means—

(a) in the case of a person who was awarded a pass with honours in the examination referred to in paragraph (a) of subsection one of this section —a period of six months or separate periods aggregating six months, each of which periods was not less than one month; and

(b) in the case of any other person— a period of twelve months or separate periods aggregating twelve months, each of which periods was not less than one month,

whether or not that period or any of those periods occurred before or after, or partly before and partly after, he received his degree in pharmacy.

(f)

(f) by omitting from section fourteen the words "and to be described in the register as a practising pharmacist"; Sec. 14. (Prescribed foreign qualifications for registration.)

(g) (i) by omitting from section fifteen the words "and to be described in the register as a practising pharmacist"; Sec. 15. (Other foreign qualifications for registration.)

(ii) by omitting paragraphs (b) and (c) of the same section and by inserting in lieu thereof the following paragraph :—

(b) has passed an examination in pharmacy, including such subjects as may be approved by the Board, before examiners appointed by the Senate of the University of Sydney or the governing body of any other prescribed university in New South Wales; and

(h) (i) by omitting from section sixteen the words "and to be described in the register as a practising pharmacist"; Sec. 16. (Qualifications for registration—New South Wales apprentices.)

(ii) by inserting in paragraph (d) of the same section after the word "examination" the words "held before the expiration of a period of three years commencing on the day on which the assent of Her Majesty to the Pharmacy (Amendment) Act, 1969, was signified";

(i) by inserting next after section seventeen the following new section :— New sec. 17A.

17A. (1) Where— Provisional registration.

(a) a person has applied to be registered;

(b)

(b) he would, if the Board were satisfied—

(i) that he has had the requisite experience referred to in paragraph (b) of subsection one of section thirteen, or in section fourteen, of this Act; and

(ii) as to the matters referred to in paragraph (a) of subsection one of section seventeen of this Act,

be entitled to be registered; and

(c) his application for registration has not been dealt with by the Board,

the president of the Board or, in his absence from the City of Sydney, any other member of the Board authorised generally by the Board to grant certificates of provisional registration, may, if he is satisfied as to the matters referred to in subparagraphs (i) and (ii) of paragraph (b) of this subsection, and on payment of the prescribed fee, grant to that person a certificate of provisional registration in the prescribed form.

(2) Where, on an application made by any person for a certificate of provisional registration under this subsection, the Board, the president of the Board or, in his absence from the City of Sydney, any other member of the Board authorised generally by the Board to grant certificates of provisional registration is satisfied—

(a) that that person is justly entitled to a prescribed qualification referred to in section fourteen of this Act that is to be conferred on or granted to him by a prescribed university, college, institute or other body, so referred to, that is in the Commonwealth of Australia;

(b) that he will in due course have that prescribed qualification conferred on or granted to him according to the practice of that prescribed university, college, institute or other body;

(c) that he has had the requisite experience referred to in section fourteen of this Act; and

(d) as to the matters referred to in paragraph (a) of subsection one of section seventeen of this Act,

the Board or if the Board has not dealt with his application under this subsection the president of the Board or other such member of the Board may, on payment of the prescribed fee, grant to that person a certificate of provisional registration in the prescribed form.

(3) Where a person has obtained a certificate of provisional registration he shall be deemed to be registered under this Act until—

(a) the date stated in the certificate; or

(b) such later date as may be fixed by the Board,

which date shall, in either case, be not later than three months after the granting of the certificate.

(4) The Board may, at any time before the date so stated or fixed, for such cause as to it seems proper, cancel a certificate of provisional registration without prejudice to the application of the holder of the certificate to be registered.

(5) Upon the cancellation of a certificate of provisional registration, the holder of the certificate shall thereupon cease to be deemed to be registered.

(6) If a person to whom a certificate of provisional registration has been granted becomes registered before the date stated or fixed pursuant to subsection three of this section in respect of that certificate, his registration shall, unless otherwise decided by the Board, date from the granting of the certificate.

Sec. 18. (Apprentices to be allowed to attend lectures and examinations.)

(j) (i) by omitting from section eighteen the word "practising" wherever occurring;

(ii) by omitting the same section;

Sec. 19. (Roll fee.)

(k) by inserting in subsection four of section nineteen after the word "writing" the words "and if it is satisfied that he is of good character";

Sec. 20. (Removal of name on account of misconduct.)

(l) (i) by omitting from subsection one of section twenty the words "or misdemeanour" wherever occurring and by inserting in lieu thereof the words ", misdemeanour, crime or offence";

(ii) by omitting from the same subsection the words "his registration be suspended" and by inserting in lieu thereof the words "he be suspended from practice as a pharmacist";

(iii) by omitting paragraph (c) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—

(c) for, on behalf of or in association with some person, company, corporation or partnership carries on the business of a pharmacist or has a pecuniary interest, direct or indirect, in the business of a pharmacist, where the person, company, corporation or partnership is not entitled to carry on that business or to have that pecuniary interest.

(iv) by omitting from subsection three of the same section the words "In the case of a conviction referred to in paragraph (a) of subsection one of this section, the Board shall not" and by inserting in lieu thereof the words "The Board shall not, under this section,";

(v) by omitting paragraph (b) of the same subsection;

(vi) by inserting next after the same subsection the following new subsections :—

(3A) The Board may, after receiving a complaint in respect of a pharmacist, inform the pharmacist of the nature of the complaint and, by notice, invite the pharmacist to make, within such time as the Board specifies in the notice, such representations to the Board with respect to the complaint as he thinks fit.

(3B) The Board may, after receiving any such representations or after the expiry of the time specified in the notice, whichever first happens, dismiss the complaint or set it down for inquiry under this section.

(vii) by inserting at the end of the same section the following new subsection :—

(7) Where the name of a pharmacist has been removed from the register under this section, the pharmacist shall be deemed to be not registered as a pharmacist under this Act.

(m) by inserting next after section twenty the following new section :— New sec. 20A.

20A. (1) Notwithstanding any other provision of this Act where the Board is satisfied on such evidence as to it seems proper that any applicant for registration under this Act or any pharmacist is, by reason of infirmity, injury or illness, whether mental Refusal or suspension of registration or removal from register on ground of unfitness.

mental or physical, unfit to carry on the business of a pharmacist the Board may refuse to register the applicant's name in the register or may order that the name of the pharmacist be removed from the register or that he be suspended from practice as a pharmacist for such period as may be specified in the order.

(2) For the purposes of subsection one of this section the Board—

(a) may require an applicant for registration or a pharmacist to undergo, at the expense of the Board, such medical examinations by such medical practitioners as may be specified by the Board; and

(b) may hold such inquiry as the Board thinks fit.

(3) A failure or refusal by any person required by the Board to undergo a medical examination in accordance with a requirement of the Board made under paragraph (a) of subsection two of this section may be regarded by the Board as evidence that that person is, by reason of infirmity, injury or illness, whether mental or physical, unfit to carry on the business of a pharmacist.

(4) Nothing in subsection one of this section affects the powers of the Board under any other provision of this Act to refuse an application for registration under this Act or to remove the name of a pharmacist from the register or to suspend a pharmacist from practice.

(5) Where the name of a pharmacist has been removed from the register under this section, the pharmacist shall be deemed to be not registered as a pharmacist under this Act.

(n) by omitting from subsection one of section twenty-one the words "sent by post" and by inserting in lieu thereof the words "served personally on the pharmacist, or is sent by registered post"; Sec. 21. (Effect of Board's order.)

(o) (i) by omitting from subsection one of section twenty-two the words "the suspension of his registration" and by inserting in lieu thereof the words "that he be suspended from practice as a pharmacist"; Sec. 22. (Appeal against orders of the Board.)

(ii) by omitting from the same subsection the words "his registration suspended" and by inserting in lieu thereof the words "he has been so suspended from practice";

(iii) by inserting at the end of the same section the following new subsection :—

(4) The provisions of this section do not apply so as to enable an applicant for provisional registration or the holder of a certificate of provisional registration that has been cancelled to appeal against the refusal or cancellation of the certificate of provisional registration.

(p) (i) by omitting from section twenty-three the words "whose registration is suspended" and by inserting in lieu thereof the words "who has been suspended from practice as pharmacist or whose certificate of provisional registration has been cancelled"; Sec. 23. (Surrender of certificates of registration.)

(ii) by inserting in the same section after the word "suspension" the words "or cancellation";

(iii) by inserting in the same section after the word "registration" where secondly occurring the words "or provisional registration";

(iv) by omitting from the same section the words "by the Board" and by inserting in lieu thereof the words "under this Act";

(q)

Sec. 24. (Restoration of name to register.)

(q) by omitting from section twenty-four the words "the registration of any person has been suspended" and by inserting in lieu thereof the words "any person has been suspended from practice as a pharmacist";

Sec. 25. (Persons other than pharmacists not to have interest in pharmacists' businesses.)

(r) (i) by omitting from subsection one of section twenty-five the word "practising";

(ii) by omitting from subparagraph (i) of paragraph (a) of subsection two of the same section the words "of his being" and by inserting in lieu thereof the words "only of his being an employee";

(iii) by omitting from paragraph (b) of the same subsection the words ", in lieu of that original open shop, with the approval in writing of the Minister in another open shop which is distant not more than ten miles from that original open shop" and by inserting in lieu thereof the words "in another open shop which is within the prescribed area in relation to that original open shop";

(iv) by omitting from subparagraph (i) of paragraph (d) of the same subsection the words ", in lieu of that original open shop";

(v) by omitting from paragraph (b) of the same subparagraph the words "which is distant not more than ten miles from that original open shop" and by inserting in lieu thereof the words "which is within the prescribed area in relation to that original open shop";

(vi) by omitting from paragraph (e) of the same subsection the words "more than one open shop in which he was immediately before the prescribed date carrying on such business from continuing after such commencement to carry

on

on such business in those open shops or, in lieu of any such open shop (in this paragraph referred to as an 'original open shop')" and by inserting in lieu thereof the words "an open shop (in this paragraph referred to as an 'original open shop'), being one of two or more open shops in which he was immediately before the prescribed date carrying on such business, from continuing after such commencement to carry on such business in that original open shop or";

(vii) by omitting from subparagraph (ii) of the same paragraph the words "which is distant not more than ten miles from that original open shop" and by inserting in lieu thereof the words "which is in the prescribed area in relation to that original open shop";

(viii) by inserting at the end of the same subsection the following new paragraph :—

In this subsection "the prescribed area", in relation to an original open shop, means—

(a) an area that is within ten miles of the original open shop; or

(b) where the original open shop was situated in the area that consists of the County of Cumberland, the County of Northumberland and that part of the City of Greater Wollongong that is not within the County of Cumberland—that area.

(ix) by inserting next after the same subsection the following new subsection :—

(2A) Where an application under paragraph (b), (d) or (e) of subsection two of this section is for the Minister's approval to

carry

carry on the business of a pharmacist in an open shop situated in that part of the prescribed area referred to in paragraph (b) of the definition of that expression in that subsection, the Minister shall not approve of the application unless the applicant for the approval has given to the Board at least three months' notice in the prescribed form of his intention to make the application.

New sec. 25A.

(s) by inserting next after section twenty-five the following new section :—

Certain provisions in certain bills of sale to be void.

25A. (1) Any provision in a bill of sale given in respect of the business of a pharmacist that—

(a) requires the grantor to purchase or otherwise obtain goods or services in connection with that business from the grantee or from any other specified person;

(b) gives to the grantee power to control the manner in which that business shall be carried on;

(c) gives to the grantee access to the books of account kept in respect of that business otherwise than for the purpose of determining whether or not the grantor is complying with the conditions of the bill of sale; or

(d) provides that the grantee shall receive any consideration that varies according to the profits or takings of that business,

shall be void.

(2) The provisions of subsection one of this section do not apply to a bill of sale granted before the day on which the assent of Her Majesty to the Pharmacy (Amendment) Act, 1969, was signified until the expiration of a period of five years commencing on that day.

(t)

(t) (i) by omitting from section twenty-six the word "practising" wherever occurring;

Sec. 26. (Pharmacists not to carry on business in more than one shop.)

(ii) by omitting from subsection two of the same section the words "three open shops" and by inserting in lieu thereof the words "such number of open shops as is equal to the number of partners in the partnership";

(iii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—

(3) Subsection one of this section shall not operate to prohibit—

(a) a pharmacist who, either alone or as a partner of any other person, was immediately before the commencement of this Act carrying on the business of a pharmacist in an open shop (in this paragraph referred to as an "original open shop"), being one of two or more open shops in which he was immediately before the prescribed date carrying on such business, from continuing after such commencement to carry on (whether as owner or otherwise) such business in that original open shop or—

(i) in another open shop in which he was immediately before such commencement entitled under the Pharmacy Act, 1897–1957, to carry on, and was carrying on, such business; or

(ii) with the approval in writing of the Minister in another open shop which is in the prescribed area in relation to that open shop; or

(b) two pharmacists in partnership together who, by reason of subsection two of this section as in force immediately before the day on which the assent of Her Majesty to the Pharmacy (Amendment) Act, 1969, was signified, were entitled to carry on the business of pharmacist in an open shop (in this paragraph referred to as an "original open shop"), being one of three open shops in which they were immediately before that day carrying on such business, from continuing as partners in that partnership after that day to carry on such business in that open shop or with the approval in writing of the Minister in another open shop which is in the prescribed area in relation to that original open shop.

In this subsection—

"prescribed date" means the twenty-seventh day of November, one thousand nine hundred and forty;

"the prescribed area", in relation to an original open shop, means—

(a) an area that is within ten miles of the original open shop; or

(b) where the original open shop was situated in the area that consists of the County of Cumberland, the County of Northumberland and that part of the City of Greater Wollongong that is not within the County of Cumberland—that area.

(iv) by inserting at the end of the same section the following new subsection :—

(5) Where an application under subsection three of this section is for the Minister's approval to carry on the business of a pharmacist in an open shop situated in that part of the prescribed area referred to in paragraph (b) of the definition of that expression in that subsection, the Minister shall not approve of the application unless the applicant for the approval has given to the Board at least three months' notice in the prescribed form of his intention to make the application.

(u) (i) by omitting from section twenty-seven the word "practising" wherever occurring;

Sec. 27. (Pharmacist to be in charge of every open shop and dispensary.)

(ii) by inserting at the end of the same section the following new subsection :—

(5) Where the Board has made an order under this Act that a pharmacist be suspended from practice as a pharmacist for a specified period, that pharmacist shall, during that period, be deemed not to be a pharmacist for the purposes of subsection one of this section.

(v) (i) by omitting from section twenty-eight the word "practising" wherever occurring;

Sec. 28. (Medicines to be dispensed only by or under the superintendence of pharmacists.)

(ii) by inserting at the end of the same section the following new subsection :—

(2) Where the Board has made an order under this Act that a pharmacist be suspended from practice as a pharmacist for a specified period, that pharmacist shall, during that period, be deemed not to be a pharmacist for the purposes of subsection one of this section.

(w)

Sec. 29. (Business of deceased pharmacist may be carried on temporarily.)

(w) by inserting in section twenty-nine after the words "deceased person" where thirdly occurring the words ", or from having, as such executor, administrator, trustee or person entitled, a pecuniary interest, direct or indirect, in such business,";

Sec. 30. (Pharmacist to use only registered qualifications.)

(x) (i) by omitting from subsection one of section thirty the words "or, in the case of a practising pharmacist" where firstly occurring;

(ii) by omitting from paragraph (b) of the same subsection the words "in the case of a pharmacist, other than a practising pharmacist, the description of pharmacist, or in the case of a practising pharmacist";

(iii) by omitting from subsection two of the same section the words "any person other than a practising pharmacist who poses as a practising pharmacist or" and by inserting in lieu thereof the words "poses as or";

Sec. 33. (False entries in the register.)

(y) by inserting in section thirty-three after the word "registered" the words "or to be granted a certificate of provisional registration";

Sec. 34. (Board may summon and examine witnesses.)

(z) by inserting in subsection one of section thirty-four after the word "twenty" the words "or 20A";

Sec. 37. (Evidence.)

(aa) (i) by omitting from paragraph (b) of section thirty-seven the word "suspended," and by inserting in lieu thereof the words "suspended; or";

(ii)

(ii) by inserting next after the same paragraph the following new paragraphs :—

(c) that any person was or was not on any date or during any period mentioned in the certificate the holder of a certificate or provisional registration; or

(d) that on any date mentioned in the certificate the certificate of provisional registration of any person was cancelled.

(2) Upon the day upon which the assent of Her Majesty to this Act is signified, any person whose name was, immediately before that day, on the register and who was not described in the register as a practising pharmacist shall be deemed not to be a pharmacist and the registrar shall, as soon as practicable after that day, remove the name of any such person from the register.

(3) The provisions of section twenty-two of the Pharmacy Act, 1964, as subsequently amended, do not apply to the removal of the name of any person from the register pursuant to subsection two of this section.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969

I certify that this PUBLIC BILL, *which originated in the* LEGISLATIVE ASSEMBLY, *has finally passed the* LEGISLATIVE COUNCIL *and the* LEGISLATIVE ASSEMBLY *of* NEW SOUTH WALES.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 2 *April,* 1969.

New South Wales

ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

* *

Act No. 44, 1969.

An Act to make further provisions regulating persons who carry on the business of a pharmacist; for this and other purposes to amend the Pharmacy Act, 1964, as subsequently amended; and for purposes connected therewith. [Assented to, 17th April, 1969.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Pharmacy (Amendment) Act, 1969". Short title and citation.

(2)

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

L. A. PUNCH,
Chairman of Committees of the Legislative Assembly.

(2) The Pharmacy Act, 1964, as subsequently amended and as amended by this Act, may be cited as the Pharmacy Act, 1964–1969.

(3) Except where otherwise expressly provided, this Act shall commence upon the day on which the assent of Her Majesty to this Act is signified.

(4) The provisions of paragraph (i), subparagraph (ix) of paragraph (r) and subparagraph (iv) of paragraph (t) of subsection one of section three of this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette; and different days may be so appointed in respect of each of those provisions.

(5) Subparagraph (ii) of paragraph (j) of subsection one of section three of this Act shall commence upon the expiration of a period of three years that commences on the day on which the assent of Her Majesty to this Act is signified.

Reconstitution of Pharmacy Board of New South Wales.

2. (1) Upon the appointed day the Pharmacy Board of New South Wales shall be reconstituted and shall consist of nine members of whom—

(a) eight shall be the persons who immediately before the appointed day held office as members of that Board; and

(b) one shall be a pharmacist who is carrying on the business of a pharmacist in New South Wales but not in the County of Cumberland, the County of Northumberland or the City of Greater Wollongong and who shall be appointed by the Governor on the nomination of the persons who on the date of nomination hold office as members of that Board.

(2) The members of the Pharmacy Board of New South Wales holding office under subsection one of this section shall, subject to the Pharmacy Act, 1964, as subsequently amended, cease to hold office at the expiration of the day next preceding the prescribed day.

(3) Upon the prescribed day the Pharmacy Board of New South Wales shall be reconstituted and shall consist of nine members who shall be appointed in accordance with section four of the Pharmacy Act, 1964, as subsequently amended and as amended by this section.

(4) For the purposes only of the election and appointment of the additional member of the Pharmacy Board of New South Wales as reconstituted by subsection three of this section and of any matters necessary for or incidental to that election, appointment and reconstitution the provisions of subsection six of this section shall commence upon the appointed day and shall commence for all purposes on the prescribed day.

(5) In this section—

"appointed day" means a day to be appointed by the Governor and notified by proclamation published in the Gazette, being a day earlier than the prescribed day;

"prescribed day" means the day next following the expiration of the period for which the members of the Pharmacy Board who held office immediately before the day on which the assent of Her Majesty to this Act is signified, were appointed as members of that Board.

(6) The Pharmacy Act, 1964, as subsequently amended, is amended— Amendment of Act No. 48, 1964.

(a) (i) by omitting from subsection two of section four the word "eight" and by inserting in lieu thereof the word "nine"; Sec. 4. (Pharmacy Board of New South Wales.)

(ii)

(ii) by inserting next after paragraph (a) of the same subsection the following new paragraph :—

(aa) one shall be a pharmacist who is carrying on the business of pharmacist in New South Wales but not in the County of Cumberland, the County of Northumberland or the City of Greater Wollongong and who shall be elected by pharmacists in the prescribed manner;

Sec. 5. (President of Board.)

(b) by inserting in subsection one of section five after the words "paragraph (a)" the words "or paragraph (aa)";

Sec. 7. (Filling of casual vacancies.)

(c) by inserting in paragraph (a) of subsection two of section seven after the words "paragraph (a)" the words "or paragraph (aa)".

Further amendment of Act No. 48, 1964.

3. (1) The Pharmacy Act, 1964, as subsequently amended, is further amended—

Sec. 2. (Repeal and savings.)

(a) (i) by inserting in subsection four of section two after the word "thereof," the words "or a practising pharmacist";

(ii) by omitting from the same subsection the words "reference to a practising" and by inserting in lieu thereof the words "reference to a";

Sec. 3. (Interpretation.)

(b) by omitting from section three the definition of "Practising pharmacist";

Sec. 6. (Vacation of office.)

(c) by inserting next after paragraph (d) of subsection one of section six the following new paragraph :—

(dd) he becomes bankrupt, compounds with his creditors or makes an assignment of his estate for their benefit;

(d)

(d) by omitting paragraph (e) of subsection two of section twelve; Sec. 12. (Register of Pharmacists.)

(e) by omitting section thirteen and by inserting in lieu thereof the following section :— Subst. sec. 13.

13. (1) Subject to section seventeen of this Act, a person shall be entitled to be registered as a pharmacist if he— Qualifications for registration—New South Wales graduates.

(a) has passed through a regular graded course in pharmacy of at least three years' duration at the University of Sydney or at any other prescribed university in New South Wales and has received from that university after due examination a degree in pharmacy;

(b) satisfies the Board that he has served in the Commonwealth of Australia for not less than the prescribed period as an assistant—

(i) in the business of a pharmacist keeping open shop for the purpose of dispensing and compounding medical prescriptions;

(ii) to a pharmacist in charge of a dispensary (not forming part of a business referred to in subparagraph (i) of this paragraph) in which medicines are dispensed or compounded on the order or prescription of a medical practitioner;

(iii) to a pharmacist who is also the managing director or general manager of a company where such assistantship is served in open shop kept by such company for the purpose of dispensing and compounding medical prescriptions; or

(iv) to a pharmacist in charge of a dispensary in an open shop kept by a company for the purpose of dispensing and compounding medicines; and

(c) has had experience in the dispensing and compounding of medical prescriptions that the Board regards as sufficient to enable him satisfactorily to carry on the business of a pharmacist in New South Wales.

(2) In paragraph (b) of subsection one of this section—

"pharmacist" includes a person registered under the law in force relating to the registration of pharmacists in any other State of the Commonwealth of Australia or in the Australian Capital Territory;

"prescribed period" means—

(a) in the case of a person who was awarded a pass with honours in the examination referred to in paragraph (a) of subsection one of this section —a period of six months or separate periods aggregating six months, each of which periods was not less than one month; and

(b) in the case of any other person— a period of twelve months or separate periods aggregating twelve months, each of which periods was not less than one month,

whether or not that period or any of those periods occurred before or after, or partly before and partly after, he received his degree in pharmacy.

(f)

(f) by omitting from section fourteen the words "and to be described in the register as a practising pharmacist"; Sec. 14. (Prescribed foreign qualifications for registration.)

(g) (i) by omitting from section fifteen the words "and to be described in the register as a practising pharmacist"; Sec. 15. (Other foreign qualifications for registration.)

(ii) by omitting paragraphs (b) and (c) of the same section and by inserting in lieu thereof the following paragraph :—

(b) has passed an examination in pharmacy, including such subjects as may be approved by the Board, before examiners appointed by the Senate of the University of Sydney or the governing body of any other prescribed university in New South Wales; and

(h) (i) by omitting from section sixteen the words "and to be described in the register as a practising pharmacist"; Sec. 16. (Qualifications for registration—New South Wales apprentices.)

(ii) by inserting in paragraph (d) of the same section after the word "examination" the words "held before the expiration of a period of three years commencing on the day on which the assent of Her Majesty to the Pharmacy (Amendment) Act, 1969, was signified";

(i) by inserting next after section seventeen the following new section :— New sec. 17A.

17A. (1) Where— Provisional registration.

(a) a person has applied to be registered;

(b)

(b) he would, if the Board were satisfied—

(i) that he has had the requisite experience referred to in paragraph (b) of subsection one of section thirteen, or in section fourteen, of this Act; and

(ii) as to the matters referred to in paragraph (a) of subsection one of section seventeen of this Act,

be entitled to be registered; and

(c) his application for registration has not been dealt with by the Board,

the president of the Board or, in his absence from the City of Sydney, any other member of the Board authorised generally by the Board to grant certificates of provisional registration, may, if he is satisfied as to the matters referred to in subparagraphs (i) and (ii) of paragraph (b) of this subsection, and on payment of the prescribed fee, grant to that person a certificate of provisional registration in the prescribed form.

(2) Where, on an application made by any person for a certificate of provisional registration under this subsection, the Board, the president of the Board or, in his absence from the City of Sydney, any other member of the Board authorised generally by the Board to grant certificates of provisional registration is satisfied—

(a) that that person is justly entitled to a prescribed qualification referred to in section fourteen of this Act that is to be conferred on or granted to him by a prescribed university, college, institute or other body, so referred to, that is in the Commonwealth of Australia;

(b) that he will in due course have that prescribed qualification conferred on or granted to him according to the practice of that prescribed university, college, institute or other body;

(c) that he has had the requisite experience referred to in section fourteen of this Act; and

(d) as to the matters referred to in paragraph (a) of subsection one of section seventeen of this Act,

the Board or if the Board has not dealt with his application under this subsection the president of the Board or other such member of the Board may, on payment of the prescribed fee, grant to that person a certificate of provisional registration in the prescribed form.

(3) Where a person has obtained a certificate of provisional registration he shall be deemed to be registered under this Act until—

(a) the date stated in the certificate; or

(b) such later date as may be fixed by the Board,

which date shall, in either case, be not later than three months after the granting of the certificate.

(4) The Board may, at any time before the date so stated or fixed, for such cause as to it seems proper, cancel a certificate of provisional registration without prejudice to the application of the holder of the certificate to be registered.

(5) Upon the cancellation of a certificate of provisional registration, the holder of the certificate shall thereupon cease to be deemed to be registered.

(6) If a person to whom a certificate of provisional registration has been granted becomes registered before the date stated or fixed pursuant to subsection three of this section in respect of that certificate, his registration shall, unless otherwise decided by the Board, date from the granting of the certificate.

Sec. 18. (Apprentices to be allowed to attend lectures and examinations.)

(j) (i) by omitting from section eighteen the word "practising" wherever occurring;

(ii) by omitting the same section;

Sec. 19. (Roll fee.)

(k) by inserting in subsection four of section nineteen after the word "writing" the words "and if it is satisfied that he is of good character";

Sec. 20. (Removal of name on account of misconduct.)

(l) (i) by omitting from subsection one of section twenty the words "or misdemeanour" wherever occurring and by inserting in lieu thereof the words ", misdemeanour, crime or offence";

(ii) by omitting from the same subsection the words "his registration be suspended" and by inserting in lieu thereof the words "he be suspended from practice as a pharmacist";

(iii) by omitting paragraph (c) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—

(c) for, on behalf of or in association with some person, company, corporation or partnership carries on the business of a pharmacist or has a pecuniary interest, direct or indirect, in the business of a pharmacist, where the person, company, corporation or partnership is not entitled to carry on that business or to have that pecuniary interest.

(iv)

(iv) by omitting from subsection three of the same section the words "In the case of a conviction referred to in paragraph (a) of subsection one of this section, the Board shall not" and by inserting in lieu thereof the words "The Board shall not, under this section,";

(v) by omitting paragraph (b) of the same subsection;

(vi) by inserting next after the same subsection the following new subsections :—

(3A) The Board may, after receiving a complaint in respect of a pharmacist, inform the pharmacist of the nature of the complaint and, by notice, invite the pharmacist to make, within such time as the Board specifies in the notice, such representations to the Board with respect to the complaint as he thinks fit.

(3B) The Board may, after receiving any such representations or after the expiry of the time specified in the notice, whichever first happens, dismiss the complaint or set it down for inquiry under this section.

(vii) by inserting at the end of the same section the following new subsection :—

(7) Where the name of a pharmacist has been removed from the register under this section, the pharmacist shall be deemed to be not registered as a pharmacist under this Act.

(m) by inserting next after section twenty the following new section :— New sec. 20A.

20A. (1) Notwithstanding any other provision of this Act where the Board is satisfied on such evidence as to it seems proper that any applicant for registration under this Act or any pharmacist is, by reason of infirmity, injury or illness, whether mental Refusal or suspension of registration or removal from register on ground of unfitness.

mental or physical, unfit to carry on the business of a pharmacist the Board may refuse to register the applicant's name in the register or may order that the name of the pharmacist be removed from the register or that he be suspended from practice as a pharmacist for such period as may be specified in the order.

(2) For the purposes of subsection one of this section the Board—

(a) may require an applicant for registration or a pharmacist to undergo, at the expense of the Board, such medical examinations by such medical practitioners as may be specified by the Board; and

(b) may hold such inquiry as the Board thinks fit.

(3) A failure or refusal by any person required by the Board to undergo a medical examination in accordance with a requirement of the Board made under paragraph (a) of subsection two of this section may be regarded by the Board as evidence that that person is, by reason of infirmity, injury or illness, whether mental or physical, unfit to carry on the business of a pharmacist.

(4) Nothing in subsection one of this section affects the powers of the Board under any other provision of this Act to refuse an application for registration under this Act or to remove the name of a pharmacist from the register or to suspend a pharmacist from practice.

(5) Where the name of a pharmacist has been removed from the register under this section, the pharmacist shall be deemed to be not registered as a pharmacist under this Act.

(n) by omitting from subsection one of section twenty-one the words "sent by post" and by inserting in lieu thereof the words "served personally on the pharmacist, or is sent by registered post"; Sec. 21. (Effect of Board's order.)

(o) (i) by omitting from subsection one of section twenty-two the words "the suspension of his registration" and by inserting in lieu thereof the words "that he be suspended from practice as a pharmacist"; Sec. 22. (Appeal against orders of the Board.)

(ii) by omitting from the same subsection the words "his registration suspended" and by inserting in lieu thereof the words "he has been so suspended from practice";

(iii) by inserting at the end of the same section the following new subsection :—

(4) The provisions of this section do not apply so as to enable an applicant for provisional registration or the holder of a certificate of provisional registration that has been cancelled to appeal against the refusal or cancellation of the certificate of provisional registration.

(p) (i) by omitting from section twenty-three the words "whose registration is suspended" and by inserting in lieu thereof the words "who has been suspended from practice as pharmacist or whose certificate of provisional registration has been cancelled"; Sec. 23. (Surrender of certificates of registration.)

(ii) by inserting in the same section after the word "suspension" the words "or cancellation";

(iii) by inserting in the same section after the word "registration" where secondly occurring the words "or provisional registration";

(iv) by omitting from the same section the words "by the Board" and by inserting in lieu thereof the words "under this Act";

(q)

Sec. 24. (Restoration of name to register.)

(q) by omitting from section twenty-four the words "the registration of any person has been suspended" and by inserting in lieu thereof the words "any person has been suspended from practice as a pharmacist";

Sec. 25. (Persons other than pharmacists not to have interest in pharmacists' businesses.)

(r) (i) by omitting from subsection one of section twenty-five the word "practising";

(ii) by omitting from subparagraph (i) of paragraph (a) of subsection two of the same section the words "of his being" and by inserting in lieu thereof the words "only of his being an employee";

(iii) by omitting from paragraph (b) of the same subsection the words ", in lieu of that original open shop, with the approval in writing of the Minister in another open shop which is distant not more than ten miles from that original open shop" and by inserting in lieu thereof the words "in another open shop which is within the prescribed area in relation to that original open shop";

(iv) by omitting from subparagraph (i) of paragraph (d) of the same subsection the words ", in lieu of that original open shop";

(v) by omitting from paragraph (b) of the same subparagraph the words "which is distant not more than ten miles from that original open shop" and by inserting in lieu thereof the words "which is within the prescribed area in relation to that original open shop";

(vi) by omitting from paragraph (e) of the same subsection the words "more than one open shop in which he was immediately before the prescribed date carrying on such business from continuing after such commencement to carry

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on such business in those open shops or, in lieu of any such open shop (in this paragraph referred to as an 'original open shop')" and by inserting in lieu thereof the words "an open shop (in this paragraph referred to as an 'original open shop'), being one of two or more open shops in which he was immediately before the prescribed date carrying on such business, from continuing after such commencement to carry on such business in that original open shop or";

(vii) by omitting from subparagraph (ii) of the same paragraph the words "which is distant not more than ten miles from that original open shop" and by inserting in lieu thereof the words "which is in the prescribed area in relation to that original open shop";

(viii) by inserting at the end of the same subsection the following new paragraph :—

In this subsection "the prescribed area", in relation to an original open shop, means—

(a) an area that is within ten miles of the original open shop; or

(b) where the original open shop was situated in the area that consists of the County of Cumberland, the County of Northumberland and that part of the City of Greater Wollongong that is not within the County of Cumberland—that area.

(ix) by inserting next after the same subsection the following new subsection :—

(2A) Where an application under paragraph (b), (d) or (e) of subsection two of this section is for the Minister's approval to

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carry on the business of a pharmacist in an open shop situated in that part of the prescribed area referred to in paragraph (b) of the definition of that expression in that subsection, the Minister shall not approve of the application unless the applicant for the approval has given to the Board at least three months' notice in the prescribed form of his intention to make the application.

New sec. 25A.

(s) by inserting next after section twenty-five the following new section :—

Certain provisions in certain bills of sale to be void.

25A. (1) Any provision in a bill of sale given in respect of the business of a pharmacist that—

(a) requires the grantor to purchase or otherwise obtain goods or services in connection with that business from the grantee or from any other specified person;

(b) gives to the grantee power to control the manner in which that business shall be carried on;

(c) gives to the grantee access to the books of account kept in respect of that business otherwise than for the purpose of determining whether or not the grantor is complying with the conditions of the bill of sale; or

(d) provides that the grantee shall receive any consideration that varies according to the profits or takings of that business,

shall be void.

(2) The provisions of subsection one of this section do not apply to a bill of sale granted before the day on which the assent of Her Majesty to the Pharmacy (Amendment) Act, 1969, was signified until the expiration of a period of five years commencing on that day.

(t)

(t) (i) by omitting from section twenty-six the word "practising" wherever occurring;

Sec. 26. (Pharmacists not to carry on business in more than one shop.)

(ii) by omitting from subsection two of the same section the words "three open shops" and by inserting in lieu thereof the words "such number of open shops as is equal to the number of partners in the partnership";

(iii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—

(3) Subsection one of this section shall not operate to prohibit—

(a) a pharmacist who, either alone or as a partner of any other person, was immediately before the commencement of this Act carrying on the business of a pharmacist in an open shop (in this paragraph referred to as an "original open shop"), being one of two or more open shops in which he was immediately before the prescribed date carrying on such business, from continuing after such commencement to carry on (whether as owner or otherwise) such business in that original open shop or—

(i) in another open shop in which he was immediately before such commencement entitled under the Pharmacy Act, 1897–1957, to carry on, and was carrying on, such business; or

(ii) with the approval in writing of the Minister in another open shop which is in the prescribed area in relation to that open shop; or

(b)

(b) two pharmacists in partnership together who, by reason of subsection two of this section as in force immediately before the day on which the assent of Her Majesty to the Pharmacy (Amendment) Act, 1969, was signified, were entitled to carry on the business of pharmacist in an open shop (in this paragraph referred to as an "original open shop"), being one of three open shops in which they were immediately before that day carrying on such business, from continuing as partners in that partnership after that day to carry on such business in that open shop or with the approval in writing of the Minister in another open shop which is in the prescribed area in relation to that original open shop.

In this subsection—

"prescribed date" means the twenty-seventh day of November, one thousand nine hundred and forty;

"the prescribed area", in relation to an original open shop, means—

(a) an area that is within ten miles of the original open shop; or

(b) where the original open shop was situated in the area that consists of the County of Cumberland, the County of Northumberland and that part of the City of Greater Wollongong that is not within the County of Cumberland—that area.

(iv) by inserting at the end of the same section the following new subsection :—

(5) Where an application under subsection three of this section is for the Minister's approval to carry on the business of a pharmacist in an open shop situated in that part of the prescribed area referred to in paragraph (b) of the definition of that expression in that subsection, the Minister shall not approve of the application unless the applicant for the approval has given to the Board at least three months' notice in the prescribed form of his intention to make the application.

(u) (i) by omitting from section twenty-seven the word "practising" wherever occurring;

Sec. 27. (Pharmacist to be in charge of every open shop and dispensary.)

(ii) by inserting at the end of the same section the following new subsection :—

(5) Where the Board has made an order under this Act that a pharmacist be suspended from practice as a pharmacist for a specified period, that pharmacist shall, during that period, be deemed not to be a pharmacist for the purposes of subsection one of this section.

(v) (i) by omitting from section twenty-eight the word "practising" wherever occurring;

Sec. 28. (Medicines to be dispensed only by or under the superintendence of pharmacists.)

(ii) by inserting at the end of the same section the following new subsection :—

(2) Where the Board has made an order under this Act that a pharmacist be suspended from practice as a pharmacist for a specified period, that pharmacist shall, during that period, be deemed not to be a pharmacist for the purposes of subsection one of this section.

(w)

Sec. 29. (Business of deceased pharmacist may be carried on temporarily.)

(w) by inserting in section twenty-nine after the words "deceased person" where thirdly occurring the words ", or from having, as such executor, administrator, trustee or person entitled, a pecuniary interest, direct or indirect, in such business,";

Sec. 30. (Pharmacist to use only registered qualifications.)

(x) (i) by omitting from subsection one of section thirty the words "or, in the case of a practising pharmacist" where firstly occurring;

(ii) by omitting from paragraph (b) of the same subsection the words "in the case of a pharmacist, other than a practising pharmacist, the description of pharmacist, or in the case of a practising pharmacist";

(iii) by omitting from subsection two of the same section the words "any person other than a practising pharmacist who poses as a practising pharmacist or" and by inserting in lieu thereof the words "poses as or";

Sec. 33. (False entries in the register.)

(y) by inserting in section thirty-three after the word "registered" the words "or to be granted a certificate of provisional registration";

Sec. 34. (Board may summon and examine witnesses.)

(z) by inserting in subsection one of section thirty-four after the word "twenty" the words "or 20A";

Sec. 37. (Evidence.)

(aa) (i) by omitting from paragraph (b) of section thirty-seven the word "suspended," and by inserting in lieu thereof the words "suspended; or";

(ii)

(ii) by inserting next after the same paragraph the following new paragraphs :—

(c) that any person was or was not on any date or during any period mentioned in the certificate the holder of a certificate or provisional registration; or

(d) that on any date mentioned in the certificate the certificate of provisional registration of any person was cancelled.

(2) Upon the day upon which the assent of Her Majesty to this Act is signified, any person whose name was, immediately before that day, on the register and who was not described in the register as a practising pharmacist shall be deemed not to be a pharmacist and the registrar shall, as soon as practicable after that day, remove the name of any such person from the register.

(3) The provisions of section twenty-two of the Pharmacy Act, 1964, as subsequently amended, do not apply to the removal of the name of any person from the register pursuant to subsection two of this section.

In the name and on behalf of Her Majesty I assent to this Act.

K. W. STREET,
By Deputation from
His Excellency the Governor.

Government House,
Sydney, 17th April, 1969.