

PHARMACY ORDINANCE 1939.⁽¹⁾

No. 19 of 1939.

An Ordinance to provide for the Registration of Pharmaceutical Chemists and to Control the Practice of Pharmacy.

BE it ordained by the Legislative Council for the Territory of New Guinea, in pursuance of the powers conferred by the *New Guinea Act 1920-1935*, as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Pharmacy Ordinance* 1939.⁽¹⁾ Short title.
2. This Ordinance shall be incorporated and read as one with the *Medical Ordinance 1924-1939*.⁽²⁾ Incorporation.
3. This Ordinance shall commence on a date to be fixed by the Administrator by notice in the *New Guinea Gazette*.⁽¹⁾ Commencement.
4. This Ordinance is divided in Parts, as follows:— Parts.
 - Part I.—Preliminary.
 - Part II.—Registration and Qualifications.
 - Part III.—Conduct of Business as Pharmaceutical Chemist.
 - Part IV.—Miscellaneous.
5. In this Ordinance, unless the contrary intention appears— Definitions.

“Register” means “The Register of Pharmaceutical Chemists”;

“registered pharmaceutical chemist” means a person registered under this Ordinance as a pharmaceutical chemist;

“the Board” means the Medical Board appointed under the *Medical Ordinance 1924-1939*.⁽²⁾

(1) Particulars of this Ordinance are as follows:—

Date of assent by Administrator.	Date notified in <i>N.G. Gaz.</i> as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
5.9.1939	16.12.1939	1.7.1940 (<i>N.G. Gaz.</i> of 4.4.1940).

(2) Now the *Medical Ordinance 1924-1940*.

HEALTH—

PART II.—REGISTRATION AND QUALIFICATIONS.

Qualifications
for registration.

6. Any person who—

- (a) is registered as a pharmacist or pharmaceutical chemist under the law in force in any State at the commencement of this Ordinance;
- (b) has passed the examinations prescribed by the Pharmacy Board in any State under the provisions of the Pharmacy Act of that State, or by the Pharmacy Board of Victoria under the provisions of the *Medical Act 1915* or the *Medical Act 1928* of that State, or by the Council of the Pharmaceutical Society of Western Australia under the provisions of the *Pharmacy and Poisons Act 1910* of that State; or
- (c) holds (by examination which in the opinion of the Board is of a standard substantially equivalent to that specified in the last preceding paragraph) a certificate or diploma of competency as a pharmaceutical chemist or as a chemist and druggist from the Pharmaceutical Society of Great Britain or any college or board of pharmacy recognized by the Board,

may apply to the Board for registration as a pharmaceutical chemist and the issue to him of a certificate of registration.

Power of
Board to
register.

7. After a personal interview with an applicant for registration as a pharmaceutical chemist and on the production to it of a certificate evidencing his qualification, the Board may, upon payment of a fee of Five pounds five shillings, register the applicant as a pharmaceutical chemist and issue to him a certificate of registration, provided that it is satisfied that the applicant—

- (a) possesses one of the qualifications prescribed in the last preceding section; and
- (b) is a fit and proper person to be registered as a pharmaceutical chemist.

Pharmaceutical
chemists
registered under
the *Pharmacy
and Poisons
Ordinance
1923-1924*.

8. Notwithstanding the provisions of this Ordinance, the Board shall, without application and without payment of any fee, register as a pharmaceutical chemist every living person whose name, at the commencement of this Ordinance, appears on the register of pharmaceutical chemists kept under the *Pharmacy and Poisons Ordinance 1923-1924*⁽³⁾ and issue to him a certificate of registration.

Register.

9. The Board shall keep a Register to be called "The Register of Pharmaceutical Chemists".

(3) This Ordinance was repealed by the *Poisons and Dangerous Substances Ordinance 1939*.

Pharmacy Ordinance 1939.

10. A person shall be registered as a pharmaceutical chemist by the entry in the Register of his name and such other particulars relating to him as are prescribed. Pharmaceutical chemist, how registered.

11.—(1.) The Board shall cause to be published in the *New Guinea Gazette* in the month of July in each year a true copy of the Register. Copy of Register to be published.

(2.) A copy of the Register so published shall be *prima facie* evidence of the registration of the persons named therein.

12. Any person who procures himself to be registered under this Ordinance by means of any false or fraudulent representation or by the production of any false certificate or diploma shall be guilty of an offence. Fraudulent registration.

Penalty: Imprisonment for twelve months.

13. Any registered pharmaceutical chemist who obtains or already possesses any higher degree or any qualification other than the qualification in respect of which he is registered may have such higher degree or additional qualification inserted in the Register without payment of any additional fee. Power to make amendments in Register.

14.—(1.) Any registered pharmaceutical chemist who changes his professional address shall forthwith give notice of the fact by post to the Chairman of the Board. Notification of change of address.

(2.) Every District Registrar of Births, Deaths, and Marriages, who registers the death of any pharmaceutical chemist, shall forthwith transmit notice thereof by post to the Chairman of the Board.

15.—(1.) The Board shall remove from the Register the names of all registered pharmaceutical chemists who have died, and may make such alterations and amendments in the Register as it thinks fit. Correction of Register.

(2.) The Board may, by notice to any registered pharmaceutical chemist addressed to him by registered post according to his address in the Register, inquire whether he has changed his address or residence, and, if an answer is not returned to such notice within six months after the date of the posting thereof, may remove his name from the Register.

(3.) Any name removed from the Register under the last preceding sub-section may be restored by the Board.

16.—(1.) The Board shall remove from the Register the name of any person— Grounds of cancellation of registration.

(a) whose registration under this Ordinance or the *Pharmacy and Poisons Ordinance 1923-1924*⁽³⁾ has been obtained by fraud or misrepresentation;

(3) This Ordinance was repealed by the *Poisons and Dangerous Substances Ordinance 1939*.

HEALTH—

- (b) who has ceased to possess, or does not possess, the qualifications in respect of which he was registered under this Ordinance or the *Pharmacy and Poisons Ordinance 1923-1924*⁽³⁾;
- (c) who has been convicted in any part of His Majesty's Dominions or elsewhere of an offence which, in the opinion of the Board, renders him unfit to practise;
- (d) who has been certified insane; or
- (e) who is deemed by the Board guilty of—
 - (i) habitual drunkenness or habitual addiction to any drug; or
 - (ii) such improper conduct as, in the opinion of the Board, renders him unfit to be allowed to continue to carry on the business of a pharmaceutical chemist.

(2.) If the Board removes the name of any person from the Register under this section, it shall, if so required by him, state in writing the reason for the removal.

(3.) Any person whose name has been removed from the Register under this section may appeal to the Supreme Court to have his name restored to the Register, and the Board shall, if the Supreme Court so orders, restore his name accordingly.

Removal of names from Register.

17.—(1.) Before removing from the Register under the last preceding section the name of any person, the Board shall make due inquiry and the person may be represented by a solicitor, who may examine witnesses and address the Board on his behalf.

(2.) Pending the hearing of a charge against any person, the Board may suspend the registration of that person who shall thereupon cease to carry on the business of a pharmaceutical chemist.

Surrender of certificate of registration.

18. Any person whose name is removed from the Register under this Part, shall, within ninety days after the date of posting of a notice demanding the return of his certificate of registration, surrender his certificate of registration to the Board for cancellation.

Penalty: Five pounds for every day after the period of ninety days during which the certificate of registration is not surrendered.

(3) This Ordinance was repealed by the *Poisons and Dangerous Substances Ordinance 1939*.

PART III.—CONDUCT OF BUSINESS AS PHARMACEUTICAL CHEMIST.

19.—(1.) Any person other than a registered pharmaceutical chemist or a medical practitioner who carries on or attempts to carry on in any place on any occasion the business of a pharmaceutical chemist, or pretends to be a pharmaceutical chemist, or assumes and uses the title of pharmaceutical chemist, pharmacist, chemist, druggist, homeopathic chemist, dispensing chemist, dispensing druggist, or other words of similar meaning, or uses or exhibits any title, term, sign, or symbol which may be construed to mean that he is qualified to perform the functions of a pharmaceutical chemist or that he is carrying on the business of a pharmaceutical chemist, shall be guilty of an offence.

Prohibition of persons other than registered pharmaceutical chemists from carrying on the business of a pharmaceutical chemist.

Penalty: One hundred pounds.

(2.) Upon the decease of any pharmaceutical chemist actually in business as a pharmaceutical chemist at the time of his death, any executor, administrator, or trustee of the estate of that pharmaceutical chemist may continue the business for a period of twelve months or for such longer term as is permitted by the Board if and so long only as the business is *bona fide* conducted by a registered pharmaceutical chemist.

20. A retail storekeeper or shopkeeper shall not, subject to any law in force in the Territory, be deemed to be carrying on the business of a pharmaceutical chemist if he sells—

Sale of patent medicines, &c.

- (a) any patent medicine or proprietary medicine; or
- (b) any medicine or drug sold in the original container in which it was packed by the manufacturer.

For the purposes of this Ordinance, a patent or proprietary medicine means any pills, powders, lozenges, tinctures, potions, or waters (other than artificial mineral waters) which—

- (c) are the subject of an existing letters patent;
- (d) are to be used or applied externally or internally and in respect of which the person making or vending them claims to have any secret process for, or any exclusive right or title to, making or preparing them; or
- (e) are by any public notice or advertisement or by any written or printed papers or handbills or by any label held out or recommended to the public by the makers, vendors, or proprietors of them as nostrums or specifics or as beneficial to the prevention, cure, or relief of any ailment.

21. Every pharmaceutical chemist, and every person or assistant under whose conduct or management the business or any branch of the business of a pharmaceutical chemist is carried on, shall have

Name of pharmaceutical chemist to be exhibited.

HEALTH—

his name legibly painted or written, and continually so maintained, on a conspicuous place on the front of the building where the business is carried on.

Prescriptions
to be signed.

22. A medical practitioner shall not issue a prescription unless the prescription is signed by him with his usual signature or is written on paper on which is printed his full surname and the initials of his Christian names, and bears the date on which the prescription was issued.

Record of
prescriptions.

23. Every pharmaceutical chemist shall, as prescribed, record in a book to be kept by him for the purpose every prescription of any medical practitioner dispensed, compounded, or made up by him.

Conduct of
business by
pharmaceutical
chemist.

24. A pharmaceutical chemist shall not—

- (a) keep or maintain any shop for selling or supplying medicines or drugs, or for compounding or dispensing prescriptions, unless it is, while open for business, constantly under his own control or that of some other registered pharmaceutical chemist;
- (b) permit any person, other than a *bona fide* assistant or apprentice in the course of his employment and under his actual personal supervision, or other than a registered pharmaceutical chemist, to sell or supply medicines or drugs, or compound or dispense prescriptions;
- (c) carry on the business of a pharmaceutical chemist except under the actual personal supervision of himself or some other registered pharmaceutical chemist;
- (d) carry on the business of a pharmaceutical chemist except in his own name;
- (e) adopt the title "Consulting chemist";
- (f) give medical or surgical advice or aid except in his place of business and—
 - (i) in the case of simple ailments of common occurrence;
 - (ii) in the administration of antidotes in cases of acute poisoning;
 - (iii) in the application of immediate aid in cases of accident or injury; or
 - (iv) in urgent cases under the direct instructions of a medical practitioner;
- (g) allow his name to be used in connection with the carrying on of the business of a pharmaceutical chemist at any premises at which there is not a registered pharmaceutical chemist in daily attendance; or

Pharmacy Ordinance 1939.

- (h) aid or assist any person other than a registered pharmaceutical chemist to carry on the business of a pharmaceutical chemist except in accordance with the provisions of this Ordinance.

25. Every medical practitioner, and every veterinary surgeon registered under the law of the Territory or of a State, may compound or dispense any medicines or drugs for patients or animals under his professional care without becoming a registered pharmaceutical chemist.

Medical practitioner &c. may dispense medicines.

26.—(1.) Any person, other than a medical practitioner, or a person acting under the direct instructions of a medical practitioner, who attends upon, prescribes for, or supplies any article as a drug, medicine, instrument, or appliance to, any person for the alleviation, cure, or treatment of any venereal disease, whether the person is in fact suffering from any venereal disease or not, or of any disease affecting the generative organs or functions, or of sexual impotence, or of any complaint or infirmity arising from or relating to sexual intercourse, or of female or menstrual irregularities, or for the purpose of terminating pregnancy or influencing the course of pregnancy, shall be guilty of an offence.

Restrictions upon the supply of certain medicines, &c.

Penalty: Fifty pounds or imprisonment for six months.

(2.) Nothing in this section shall apply to—

- (a) a registered pharmaceutical chemist who dispenses to the patient of a medical practitioner registered in the Territory or in any part of His Majesty's Dominions the prescription of such medical practitioner, if the prescription is dated and bears the address and usual signature (including the surname) of the medical practitioner; or
- (b) a registered pharmaceutical chemist who in the ordinary course of his business sells or supplies any article as a drug, medicine, instrument, or appliance (except such articles as are prescribed), provided the article is sold or supplied by the pharmaceutical chemist for purposes other than those referred to in the last preceding sub-section.

27.—(1.) A person shall not publish any statement, whether by way of advertisement or otherwise, to promote the sale of any article as a drug, medicine, instrument, or appliance for the alleviation, cure, or treatment of any venereal disease, or of any disease affecting the generative organs or functions, or of sexual impotence, or of any complaint or infirmity arising from or relating to sexual intercourse, or of female or menstrual irregularities, or for the purpose of terminating pregnancy or influencing

Prohibition of certain advertisements.

HEALTH—

the course of pregnancy, or for the purpose of preventing conception.

(2.) Any person who—

- (a) affixes or inscribes any such statement on any such drug, medicine, instrument, or appliance so as to be visible to persons being in or passing along any street, road, highway, pathway, public place, or public conveyance;
- (b) delivers or offers, or exhibits any such statement to any person being in or passing along any street, road, highway, pathway, public place, or public conveyance;
- (c) throws any such statement into or upon any street, road, highway, pathway, public place, or public conveyance, or into the area, yard, garden, or enclosure of any house;
- (d) exhibits any such statement to public view in any house, shop, or place;
- (e) prints or publishes any such statement in any newspaper; or
- (f) sells, offers, or shows, or sends by post, any such statement to any person,

shall be deemed to have published that statement.

(3.) In this section “statement” includes any book, document, or paper containing any statement.

(4.) Any person who, for himself or as assistant, servant, agent, or manager, does or permits any act, matter, or thing contrary to this section shall be guilty of an offence.

Penalty: Fifty pounds.

(5.) Nothing in this section shall apply to any books, documents, or papers published in good faith for the advancement of medical or surgical science, or to any advertisement, notice, or recommendation published by the authority of the Director of Public Health, or to any publication sent only to medical practitioners or to registered pharmaceutical chemists for the purposes of their business.

British
Pharmacopoeia.

28. The British Pharmacopoeia, as published in England under the direction of the General Council of Medical Education and Registration of the United Kingdom in the edition for the time being in force, shall be the Pharmacopoeia in force in the Territory as the standard of quality or composition for all drugs or medicines and for the methods of preparation of all drugs or medicines and of the compounding of all mixtures of all drugs or medicines, and for the purposes of this Ordinance the metre and the gram shall be accepted as legal units of measure and weight respectively.

PART IV.—MISCELLANEOUS.

29. Any person who commits any breach of the provisions of this Ordinance, for which a penalty is not specially provided, shall be liable on conviction to a penalty not exceeding Fifty pounds.

Penalty for offences where no special penalty provided.

30. Proceedings for offences against this Ordinance may be instituted by the Chairman of the Board or by any person thereto authorized in writing by him.

Proceedings, how instituted.

31. The Administrator in Council may make regulations,⁽⁴⁾ not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance, and in particular prescribing matters providing for and in relation to—

Power to make regulations.

- (a) the forms to be used in connection with this Ordinance;
- (b) the manner of keeping the Register and the particulars to be entered therein;
- (c) the fees to be charged for the performance of the several acts, matters, and things provided for in this Ordinance;
- (d) the control of the professional conduct of registered pharmaceutical chemists and the practice of the profession;
- (e) the conditions under which drugs and medicines may be manufactured, dispensed, compounded or sold;
- (f) the extent to which the British Pharmaceutical Codex, published by direction of the Council of the Pharmaceutical Society of Great Britain, or the Australasian Pharmaceutical Formulary published by the Australasian Pharmaceutical Conference on behalf of the Pharmaceutical Societies of Australia and New Zealand, shall be accepted as a statement of official standards or quality or composition of drugs or medicines and of the methods of preparation of drugs or medicines and of the compounding of all mixtures of drugs or medicines;
- (g) the qualifications of apprentices and the conditions under which apprentices may be employed; and
- (h) the imposition of penalties not exceeding Twenty pounds for breaches of regulations made under this section.

(4) See the *Pharmacy Regulations*, printed on p. 2240.