

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

Prys 20c Price
Oorsee 30c Overseas
POSVRY—POST FREE

Vol. 165]

KAAPSTAD, 21 MAART 1979
CAPE TOWN, 21 MARCH 1979

[No. 6361

DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 586.

21 Maart 1979.

No. 586.

21 March 1979.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 20 van 1979: Wysigingswet op Aptekers, 1979.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 20 of 1979: Pharmacy Amendment Act, 1979.

Act No. 20, 1979

PHARMACY AMENDMENT ACT, 1979.

GENERAL EXPLANATORY NOTE:

- [** Words in bold type in square brackets indicate omissions from existing enactments.
-]** Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the provisions of the Pharmacy Act, 1974, so as to define certain expressions; to alter the constitution of the South African Pharmacy Board; to increase the number of the members who shall form a quorum at meetings of the said board; to empower the said board to appoint persons other than members thereof to committees of the said board; to make further provision with regard to the prerequisites for registration as pharmacists of holders of qualifications obtained outside the Republic; to provide for the registration of certain pharmacy students as pharmacists' assistants; to further regulate the conditions under which certain corporate bodies are allowed to carry on business as pharmacists; to supplement the acts which are deemed to be acts specially pertaining to the profession of a pharmacist; to provide for the conducting, in certain circumstances, of a pharmacy without the continuous personal supervision of a pharmacist; to regulate the power of entry and inspection of certain officers and other persons; to empower the said board to postpone the imposition or to suspend the execution of penalties which it is empowered to impose; and to extend the power of making regulations; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 13 March 1979.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of
section 1 of
Act 53 of 1974.

1. Section 1 of the Pharmacy Act, 1974 (hereinafter referred to as the principal Act), is hereby amended—
- (a) by the insertion after the definition of "pharmacist" of the following definition:
 "'pharmacist's assistant' means a person registered as such under this Act";
- (b) by the insertion after the definition of "trainee pharmacist" of the following definition:
 "'veterinarian' means a person registered as such under the Veterinary Act, 1933 (Act No. 16 of 1933).";
- and
- (c) by the deletion of the definition of "unqualified assistant".

Amendment of
section 5 of
Act 53 of 1974.

2. (1) Section 5 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:

Act No. 20, 1979

PHARMACY AMENDMENT ACT, 1979.

“(1) The board shall consist of the following members, namely—

- (a) five persons appointed by the Minister, of whom—
- (i) four shall be pharmacists, two of whom shall each be a member of the staff of a university (but not members of the same staff) at which provision is made for the training of pharmacists; 5
 - (ii) one shall be a person who is not registered under this Act or the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), or the Nursing Act, 1978 (Act No. 50 of 1978); 10
- (b) six pharmacists who are South African citizens, resident in the Republic and elected by pharmacists in accordance with the provisions of this Act; 15
- (c) one person registered as a medical practitioner under the Medical, Dental and Supplementary Health Service Professions Act, 1974, and appointed from among its members by the South African Medical and Dental Council referred to in that Act; 20
- (d) one person registered as a nurse under the Nursing Act, 1978, and appointed from among its members by the South African Nursing Council referred to in that Act; 25
- (e) the chief of pharmaceutical services of the Department of Health;
- (f) two pharmacists who shall each be a member of the staff of a college for advanced technical education (but not members of the same staff) at which provision is made for the training of pharmacists, appointed by the Association of Technical Colleges in the Republic of South Africa referred to in section 28 of the Advanced Technical Education Act, 1967 (Act No. 40 of 1967).” 30 35

- (b) by the substitution for subsection (3) of the following subsection:

“(3) Subject to the provisions of section 7, the members of the board shall hold office for a period of five years, but shall be eligible for reappointment or re-election, as the case may be.”; and 40

- (c) by the insertion after subsection (3) of the following subsection:

“(3A) (a) Not less than three months prior to the date of expiry of the term of office of the members of the board, the South African Medical and Dental Council referred to in subsection (1) (c), the South African Nursing Council referred to in subsection (1) (d) and the Association of Technical Colleges in the Republic of South Africa referred to in subsection (1) (f) shall inform the registrar in writing of the names of the persons appointed by them in terms of the provisions of subsection (1). 50

- (b) If the said South African Medical and Dental Council or South African Nursing Council or Association of Technical Colleges in the Republic of South Africa fails to make an appointment in terms of the provisions of subsection (1), or to inform the registrar, as required in paragraph (a), of the names of the persons appointed by them, the Minister shall make the necessary appointment, and any appointment so made by the Minister shall be deemed to have been properly made in terms of the appropriate paragraph of subsection (1).” 55 60 65

Act No. 20, 1979

PHARMACY AMENDMENT ACT, 1979.

- (2) Notwithstanding the provisions of subsection (1) (a) and (b)—
- (a) the members of the South African Pharmacy Board, referred to in section 2 of the principal Act, holding office immediately prior to the commencement of this Act, shall continue to hold office until the period for which they have been appointed or elected, as the case may be, expires;
 - (b) the number of members referred to in paragraph (a) shall be supplemented by the appointment—
 - (i) by the Minister, of two pharmacists, one of whom shall be a member of the staff of a university at which provision is made for the training of pharmacists;
 - (ii) by the South African Nursing Council referred to in the Nursing Act, 1978 (Act No. 50 of 1978), from among its members, of one person registered as a nurse under the said Act; and
 - (iii) by the Association of Technical Colleges in the Republic of South Africa, referred to in section 28 of the Advanced Technical Education Act, 1967 (Act No. 40 of 1967), of one pharmacist who shall be a member of the staff of a college for advanced technical education at which provision is made for the training of pharmacists;
 - (c) the term of office of the members appointed under paragraph (b), shall expire on the date on which the period for which the members referred to in paragraph (a) have been appointed or elected, expires.

Amendment of
section 9 of
Act 53 of 1974.

3. Section 9 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) **Four** ~~Eight~~ members of the board shall form a quorum at any meeting of the board.”

Amendment of
section 10 of
Act 53 of 1974.

4. Section 10 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a), and paragraph (a), of the following words and paragraph:

“The board **may** ~~shall~~ appoint from among its members an executive committee and may appoint such other committees, consisting of members and other persons, as it may deem necessary, and it may delegate to any such committee such of its powers as it may from time to time determine, but shall not be divested of any power so delegated: Provided that—

- (a) no penalty imposed by such a committee (other than a caution or a reprimand or a reprimand and a caution or any penalty imposed in respect of any misconduct in connection with any examination conducted by the board) shall be of force and effect until the board has confirmed its imposition;”

Amendment of
section 14 of
Act 53 of 1974.

5. Section 14 of the principal Act is hereby amended by the substitution for paragraph (d) of subsection (1) of the following paragraph:

“(d) a register of **unqualified** pharmacists’ assistants, in which shall be entered the name, address, registration number and date of registration of every person entitled in terms of this Act to be registered as **an unqualified** a pharmacist’s assistant;

Act No. 20, 1979

PHARMACY AMENDMENT ACT, 1979.

Substitution of section 19 of Act 53 of 1974.

6. The following section is hereby substituted for section 19 of the principal Act:

19. Notwithstanding anything to the contrary in this Act contained, no person who has obtained his professional qualifications outside the Republic shall be registered as a pharmacist unless he has **passed** to the satisfaction of the board—

(a) undergone practical training with a pharmacist within or outside the Republic for a period of not less than one year or periods of not less than one year in the aggregate; and

(b) passed a test, set by examiners appointed by the board, establishing his knowledge of the laws of the Republic relating to pharmaceutical practice and the practice of the pharmaceutical profession.

Amendment of section 20 of Act 53 of 1974.

7. Section 20 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) undergone the prescribed practical training with a pharmacist in the Republic in a pharmacy approved by the board and by virtue of a prescribed contract of training, which shall be lodged with the registrar and approved by the board prior to the commencement of such training; or”

Substitution of section 21 of Act 53 of 1974.

8. The following section is hereby substituted for section 21 of the principal Act:

21. Any person who has either obtained credit for the first **and second** year of study for a degree or diploma in pharmacy at an institution approved by the board and who is registered as a pharmacy student, or who has served as an indentured apprentice to a pharmacist within the Republic in terms of the provisions of section 27 of the Medical, Dental and Pharmacy Act, 1928 (Act No. 13 of 1928), for such period as the board may determine, may, on payment of the prescribed fee, be registered as **an unqualified** a pharmacist's assistant.”

Amendment of section 22 of Act 53 of 1974, as amended by section 9 of Act 36 of 1977.

9. Section 22 of the principal Act is hereby amended by the substitution for subsection (6) of the following subsection:

“(6) (a) A body corporate which did not immediately prior to the commencement of this Act carry on business as a retail pharmacist, may carry on business as such if it is a private company having a share capital and has been incorporated and registered under the Companies Act, 1973 (Act No. 61 of 1973), as a private company **and if its memorandum of association states that its directors and former directors shall be liable, jointly and separately, together with the company for such debts and liabilities of the company as are or were contracted during their period of office**].

(b) Notwithstanding anything to the contrary contained in the Companies Act, 1973, the following provisions shall apply in respect of such company—

(i) Only natural persons who are pharmacists may hold the shares of such company or have any interest in such shares: Provided that in the event of any person dying or ceasing to qualify so to hold shares of the company, any shares of it held by him prior thereto, may continue to be held by him or his estate for a period of **six** twelve months or such longer period as the board may determine.

Act No. 20, 1979

PHARMACY AMENDMENT ACT, 1979.

- (ii) No voting rights, except in respect of a resolution enabling the company to comply with the provisions of this section or to dispose of its undertaking or assets or any part thereof, shall attach to any share held in terms of the proviso to subparagraph (i), and the holder of any such share shall not receive any director's fees or remuneration **[or participate in the income or profits earned by that company by the carrying on of its retail pharmacy business]**. 5 10
- (iii) Every holder of shares of such company, other than a person referred to in the proviso to subparagraph (i), shall be deemed to be a director of the company, and no other person who is not such a holder, except the managing director thereof, shall be a director of that company. 15
- (iv) The name of the company shall consist solely of the name or names of any of the members or former members of the company or of persons who carried on, either for their own account or in partnership, any pharmacy business which may reasonably be regarded as a predecessor of the business of the company: Provided that the words 'and associates' or 'and company' may be included in the name of the company. 25

Amendment of
section 29 of
Act 53 of 1974.

10. Section 29 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (2) of the following paragraph:
“(a) the manipulation, preparation or compounding of any medicine or medicinal or chemical substance **[(whether it does or does not contain a poison)]** for sale or supply as a medicine;” 30
- (b) by the substitution for paragraph (b) of subsection (2) of the following paragraph:
“(b) the compounding or sale or supply **[(— (i) of any medicine on the prescription of a medical practitioner, [or] dentist or veterinarian; [or (ii) of any chemical substance on the prescription of a veterinarian;]**” 35 40
- (c) by the addition of the following paragraph to subsection (2):
“(d) the furnishing of advice to any person with regard to any medicine supplied to him;”
- (d) by the substitution for subparagraph (ii) of paragraph (b) of subsection (3) of the following subparagraph:
“(ii) of **[an unqualified] a pharmacist's assistant, pharmaceutical technician or other pharmaceutical auxiliary personnel;**” 45
- (e) by the substitution for paragraph (c) of subsection (3) of the following paragraph:
“(c) the manufacture or packing **[for human use]** of any medicine or medicinal or chemical substance by a person referred to in subsection (4), by virtue of a permit granted in terms of that subsection;” 50 55
- (f) by the substitution for subsection (4) of the following subsection:
“(4) The Minister may, after consultation with the board, grant a permit to a person not registered under this Act, authorizing such person to manufacture, **[or] pack or sell [, for human use,]** any medicine or medicinal or chemical substance specified in the permit, 60

Act No. 20, 1979

PHARMACY AMENDMENT ACT, 1979.

- subject to such conditions as may be set out in the permit.”; and
- (g) by the addition of the following subsection:
- “(5) If he is of the opinion that it is in the public interest to do so, the Secretary for Health may, pending the Minister’s decision in respect of an application for a permit referred to in subsection (4), grant a provisional permit to the applicant concerned, authorizing him to manufacture, pack or sell any medicine or medicinal or chemical substance specified in such provisional permit, subject to such conditions as may be determined by the said Secretary and set out in the provisional permit.”

Amendment of section 35 of Act 53 of 1974.

11. Section 35 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:
- “(1) Every pharmacy shall, except in such circumstances and subject to such conditions as may be prescribed, be conducted under the continuous personal supervision of a pharmacist, whose name shall be displayed conspicuously over the main entrance of such pharmacy.”

Amendment of section 37 of Act 53 of 1974.

12. Section 37 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:
- “(a) the executor in the deceased estate of a pharmacist may, subject to the law relating to the administration of estates, for a period not exceeding **five years** twelve months after the date of the death of that pharmacist, and for such additional period as the board may in its discretion allow, continue the pharmacy business of the deceased, provided it is conducted under the continuous personal supervision of a pharmacist;”

Insertion of section 38A in Act 53 of 1974.

13. The following section is hereby inserted in the principal Act after section 38:

- 38A.** (1) Any officer appointed in terms of this Act who is required or authorized to perform any duty on behalf of the board and any person appointed by virtue of the provisions of section 49 (1) (i) (v) to make any inspection, may enter any pharmacy at any time reasonable for the proper performance of such duty or the making of such inspection.
- (2) Any person who fails to give or refuses access to any officer or person referred to in subsection (1), if he requests entrance to any pharmacy, or obstructs or hinders him in the execution of his duties under this Act, or who fails or refuses to give information that he may lawfully be required to give to such officer or person, or who gives to such officer or person false or misleading information knowing it to be false or misleading, shall be guilty of an offence.
- (3) Every officer or person referred to in subsection (1) shall be issued with a document signed by the registrar and containing the name of the officer or person concerned as well as a statement to the effect that such officer or person is empowered to perform any duty or make any inspection in terms of this section.
- (4) Whenever any officer or person performs any duty or makes any inspection as contemplated in this section, he shall exhibit to any person affected thereby the document issued to him in terms of subsection (3).”

Act No. 20, 1979

PHARMACY AMENDMENT ACT, 1979.

Amendment of
section 43 of
Act 53 of 1974.

14. Section 43 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) No pharmacist shall pay to any **[medical practitioner] person** any commission or in any other manner reward him in connection with a prescription **[which the]** 5
issued by a medical practitioner or veterinarian [has supplied].”

Amendment of
section 44 of
Act 53 of 1974.

15. Section 44 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection: 10

“(2) When in the course of any proceedings before any court of law it appears to the court that there is *prima facie* proof of improper or disgraceful conduct on the part of a registered person, or of conduct which when regard is had to such person's profession is 15
improper or disgraceful, the court shall direct that a copy of the record of such proceedings, or such portion thereof as is material to the issue, or in the case of the payment by such person of an admission of guilt fine referred to in section 57 of the Criminal Procedure Act, 20
1977 (Act No. 51 of 1977), a copy of the summons or written notice in question, shall be transmitted to the board.”; and

(b) by the substitution for subsection (3) of the following subsection: 25

“(3) The board shall appoint a person, excluding the registrar or a member, to institute and conduct before the board proceedings under this Chapter: Provided that if a person so appointed is absent or for any other reason unable to perform his duties, the board may, subject to 30
the provisions of this subsection, appoint any other person to perform, during such absence or incapacity, the duties of such first-mentioned person.”

Amendment of
section 45 of
Act 53 of 1974.

16. Section 45 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following 35
paragraph:

“(b) suspension for a specified period from practising or performing acts specially pertaining to his profession or, if he is a trainee pharmacist or **[an unqualified] a pharmacist's assistant**, from performing such acts as he 40
may perform in terms of this Act; or”

Insertion of
section 45A in
Act 53 of 1974.

17. The following section is hereby inserted in the principal Act after section 45:

“Postponement of imposition, and suspension of operation, of penalty. 45A. (1) Where the board finds a person referred to in section 45 (1) guilty of conduct referred to therein, 45
it may—
(a) postpone, for such period and on such conditions as it may determine, the imposition of a penalty; or
(b) impose any penalty mentioned in section 45 (1) 50
(b) or (c), but order the execution of such penalty to be suspended for such period and on such conditions as it may determine.
(2) (a) If at the end of the period for which the imposition of a penalty has been postponed in 55
terms of subsection (1) (a), the board is satisfied that the person concerned has observed all the relevant conditions, the board shall inform him that no penalty will be imposed upon him.
(b) If the execution of a penalty has been suspended 60
in terms of subsection (1) (b), and the board is satisfied that the person concerned has observed all relevant conditions throughout the period of

Act No. 20, 1979

PHARMACY AMENDMENT ACT, 1979.

suspension, the board shall inform him that such penalty will not be executed.

- (c) If the execution of a penalty has been suspended in terms of subsection (1) (b) and the person concerned fails to observe any of the conditions of suspension, the board shall put such penalty into operation unless such person satisfies the board that the non-observance of the condition in question was due to circumstances beyond his control.”

Amendment of section 49 of Act 53 of 1974, as amended by section 11 of Act 36 of 1977.

18. Section 49 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) the practice of pharmacy **[and]**, the conduct of the business of a pharmacist and the tariff of fees payable to a pharmacist in respect of professional services rendered by him;”

- (b) by the substitution for paragraph (d) of subsection (1) of the following paragraph:

“(d) any fees payable under this Act, including fees in respect of the registration of any person as a trainee pharmacist, pharmacy student, **[or]** pharmaceutical technician, pharmacist's assistant or pharmaceutical auxiliary personnel member and exemption from the payment of any such fees;” and

- (c) by the insertion in subsection (1) of the following paragraph after paragraph (m):

“(m A) supplementary training or refresher courses to be undergone or taken by persons registered under this Act and the provision of and control over such training or courses;”

Short title.

19. This Act shall be called the Pharmacy Amendment Act, 1979.