



GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

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No. 9801

STATE PRESIDENT'S OFFICE

No. 1336.

19 June 1985

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

No. 69 of 1985: Pharmacy Amendment Act, 1985.

KANTOOR VAN DIE STAATSPRESIDENT

No. 1336.

19 Junie 1985

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

No. 69 van 1985: Wysigingswet op Aptekers, 1985.

Act No. 69, 1985

PHARMACY AMENDMENT ACT, 1985

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 Pharmacy Act, 1974, so as to change the name of the South African Pharmacy Board to the South African Pharmacy Council and to alter the constitution of that body; to provide for close corporations to carry on business as pharmacists and for the recognition by the South African Pharmacy Council of qualifications for registration as a pharmacist's assistant, as well as certain additional qualifications acquired by pharmacists; and to provide for the payment of annual fees by pharmacies to be determined by regulation and to validate certain regulations; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 12 June 1985.)

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

Amendment of section 1 of Act 53 of 1974, as amended by section 1 of Act 20 of 1979 and section 1 of Act 20 of 1983.

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 "board" of the following definition:

"'corporation' means a close corporation contemplated in the Close Corporations Act, 1984 (Act No. 69 of 1984);";
 - (b) by the substitution for the definition of "Minister" of the following definition:

"'Minister' means the Minister of Health and Welfare;"; and
 - (c) by the deletion of the definition of "veterinarian".

Substitution of section 2 of Act 53 of 1974.

2. The following section is hereby substituted for section 2 of 15 the principal Act:

"Continued existence of South African Pharmacy Board.

2. (1) The South African Pharmacy Board established by section 2 of the Medical, Dental and Pharmacy Act, 1928 (Act No. 13 of 1928), shall, notwithstanding the provisions of section 52 (1) of this Act, 20 continue to exist under the name of the South African Pharmacy Council and to be a body corporate.

(2) The head office of the **[board]** council shall be situated in Pretoria."

WYSIGINGSWET OP APTEKERS, 1985

Wet No. 69, 1985

ALGEMENE VERDUIDELIKENDE NOTA:

- []** Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordeninge aan.
- _____** Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordeninge aan.

WET

Tot wysiging van die Wet op Aptekers, 1974, ten einde die naam van die "South African Pharmacy Board" in die Engelse teks te verander na die "South African Pharmacy Council" en die samestelling van daardie liggaam te verander; voorsiening te maak vir beslote korporasies om as aptekers sake te doen en vir die erkenning deur die Suid-Afrikaanse Aptekersraad van kwalifikasies vir registrasie as 'n aptekersassistent, sowel as sekere addisionele kwalifikasies deur aptekers verworf; en voorsiening te maak dat die betaling van jaarlikse gelde deur apteke by regulasie vasgestel kan word en sekere regulasies geldig te verklaar; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 12 Junie 1985.)

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

1. Artikel 1 van die Wet op Aptekers, 1974 (hieronder die Hoofwet genoem), word hierby gewysig—
- 5 (a) deur na die omskrywing van "hierdie Wet" die volgende omskrywing in te voeg—
"korporasie" 'n beslote korporasie bedoel in die Wet op Beslote Korporasies, 1984 (Wet No. 69 van 1984);";
- 10 (b) deur die omskrywing van "Minister" deur die volgende omskrywing te vervang:
"Minister" die Minister van Gesondheid en Welsyn;";
en
- (c) deur die omskrywing van "veearts" te skrap.
- 15 2. Artikel 2 van die Hoofwet word hierby in die Engelse teks deur die volgende artikel vervang:
- 20 "Continued existence of South African Pharmacy Board. 2. (1) The South African Pharmacy Board established by section 2 of the Medical, Dental and Pharmacy Act, 1928 (Act No. 13 of 1928), shall, notwithstanding the provisions of section 52 (1) of this Act, continue to exist under the name of the South African Pharmacy Council and to be a body corporate.
(2) The head office of the [board] council shall be situated in Pretoria."

Wysiging van artikel 1 van Wet 53 van 1974, soos gewysig deur artikel 1 van Wet 20 van 1979 en artikel 1 van Wet 20 van 1983.

Vervanging van artikel 2 in Engelse teks van Wet 53 van 1974.

Act No. 69, 1985

PHARMACY AMENDMENT ACT, 1985

Amendment of
section 5 of
Act 53 of 1974,
as amended by
section 2 of
Act 20 of 1979.

3. Section 5 of the principal Act is hereby amended—

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

“(a) **[five]** seven persons appointed by the Minister, of whom—

(i) **[four]** six shall be pharmacists, **[two]** four of whom shall each be a member of the staff of a university or a technikon (but not members of the same staff) at which provision is made for the training of pharmacists;

(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);”;

(b) by the deletion of paragraph (f) of subsection (1); and

(c) by the substitution for subsection (3A) 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 20 of the **[board]** council, the South African Medical and Dental Council referred to in subsection (1) (c) and 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).

(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).”.

Amendment of
section 6 of
Act 53 of 1974.

4. Section 6 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) on such date prior to the election referred to in subsection (1) as he may deem expedient, request the South African Medical and Dental Council referred to in section 5 (1) (c) and the South African Nursing Council referred to in section 5 (1) (d) each to appoint a member in terms of the provisions of that section, whereupon the said **[Council]** Councils shall appoint such member and inform the registrar of the name of the member so appointed;”.

Amendment of
section 7 of
Act 53 of 1974.

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

“(g) being an elected member, he tenders his resignation in writing to the registrar or if, being a member appointed by the Minister, he ceases to hold any qualification necessary for his appointment or tenders his resignation in writing to the Minister and the Minister accepts his resignation or if, being a member appointed by the

WYSIGINGSWET OP APTEKERS, 1985

Wet No. 69, 1985

3. Artikel 5 van die Hoofwet word hierby gewysig—

Wysiging van
artikel 5 van
Wet 53 van 1974,
soos gewysig deur
artikel 2 van
Wet 20 van 1979.

(a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

“(a) **[vyf]** sewe persone deur die Minister aangestel, van wie—

(i) **[vier]** ses aptekers moet wees, van wie **[twee]** vier elk ’n lid moet wees van die personeel van ’n universiteit of ’n teknikon (maar nie lede van dieselfde personeel nie) waar voorsiening gemaak word vir die opleiding van aptekers;

(ii) een ’n persoon moet wees wat nie kragtens hierdie Wet of die Wet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensbeproepe, 1974 (Wet No. 56 van 1974), of die Wet op Verpleging, 1978 (Wet No. 50 van 1978), geregistreer is nie;”;

(b) deur paragraaf (f) van subartikel (1) te skrap; en

(c) deur subartikel (3A) deur die volgende subartikel te vervang:

“(3A) (a) Die Suid-Afrikaanse Geneeskundige en Tandheelkundige Raad bedoel in subartikel (1) (c) en die Suid-Afrikaanse Raad op Verpleging bedoel in subartikel (1) (d) [en die Vereniging van Tegniese Kolleges in die Republiek van Suid-Afrika bedoel in subartikel (1) (f)] moet nie later nie as drie maande voor die datum van verstryking van die ampstermyn van die lede van die raad die registrateur skriftelik in kennis stel van die name van die persone wat ingevolge die bepalings van subartikel (1) deur hulle aangestel is.

(b) Indien bedoelde Suid-Afrikaanse Geneeskundige en Tandheelkundige Raad of Suid-Afrikaanse Raad op Verpleging [of Vereniging van Tegniese Kolleges in die Republiek van Suid-Afrika] versuim om ’n aanstelling ingevolge die bepalings van subartikel (1) te doen of om, soos vereis in paragraaf (a), die registrateur in kennis te stel van die name van die persone wat deur hulle aangestel is, word die nodige aanstelling deur die Minister gedoen, en ’n aanstelling wat aldus deur die Minister gedoen is, word geag behoorlik gedoen te gewees het ingevolge die toepaslike paragraaf van subartikel (1).”.

45 4. Artikel 6 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:

Wysiging van
artikel 6 van
Wet 53 van 1974.

“(a) op ’n datum voor die in subartikel (1) bedoelde verkiesing wat hy dienstig ag, die Suid-Afrikaanse Geneeskundige en Tandheelkundige Raad bedoel in artikel 5 (1) (c) en die Suid-Afrikaanse Raad op Verpleging bedoel in artikel 5 (1) (d) versoek om elk ingevolge die bepalings van daardie artikel ’n lid aan te stel, waarop bedoelde **[Raad]** Rade so ’n lid moet aanstel en die registrateur in kennis moet stel van die naam van die lid aldus aangestel;”.

5. Artikel 7 van die Hoofwet word hierby gewysig deur paragraaf (g) van subartikel (1) deur die volgende paragraaf te vervang:

Wysiging van
artikel 7 van
Wet 53 van 1974.

“(g) hy, as hy ’n verkose lid is, skriftelik sy bedanking by die registrateur indien of indien hy, as hy ’n deur die Minister aangestelde lid is, ophou om ’n bevoegdheid te besit wat vir sy aanstelling nodig is of skriftelik sy bedanking by die Minister indien en die Minister sy bedanking aanvaar of indien hy, as hy ’n lid is wat aange-

Act No. 69, 1985

PHARMACY AMENDMENT ACT, 1985

South African Medical and Dental Council referred to in section 5 (1) (c) or the South African Nursing Council referred to in section 5 (1) (d), he tenders his resignation in writing to **[that]** the council in question; or”.

Amendment of section 14 of Act 53 of 1974, as amended by section 5 of Act 20 of 1979.

6. Section 14 of the principal Act is hereby amended— 5

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

“(e) a register of bodies corporate in which shall be entered the name, address, registration number and date of registration of every body corporate (other than a corporation) carrying on business as a pharmacist in terms of this Act, as well as the name of the managing director referred to in section 22 (1) (a);”;

(b) by the insertion after the said paragraph (e) of the following paragraph:

“(eA) a register of corporations in which shall be entered the name, address, registration number and date of registration of every corporation carrying on business as a pharmacist in terms of this Act, as well as the name of the manager contemplated in section 22 B (1) (a);”.

Amendment of section 21 of Act 53 of 1974, as substituted by section 8 of Act 20 of 1979 and amended by section 1 of Act 39 of 1982.

7. (1) Section 21 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection: 25

“(1) Any person who has either obtained credit for the first year of study for a degree or diploma in pharmacy at an institution approved by the **[board]** council 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]** council may determine, or who is in possession of a qualification contemplated in subsection (3), may, on payment of the prescribed fee, be registered as a pharmacist’s assistant.”; and

(b) by the addition of the following subsection:

“(3) The council may by notice in the *Gazette* make rules regarding the recognition by the council of a qualification acquired in the Republic entitling the holder thereof to be registered as a pharmacist’s assistant, and the conditions subject to which such registration may take place.”.

(2) Subsection (1) is deemed to have come into operation on 1 January 1984. 45

Amendment of section 22 of Act 53 of 1974, as amended by section 9 of Act 36 of 1977, section 9 of Act 20 of 1979 and section 2 of Act 39 of 1982.

8. Section 22 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

“(1) Notwithstanding anything to the contrary contained in this Act, a body corporate (other than a corporation) may carry on business in the Republic as a pharmacist on the following conditions, but not otherwise—”.

Amendment of section 22A of Act 53 of 1974, as inserted by section 10 of Act 36 of 1977.

9. Section 22A of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 55

“(1) **[As from the commencement of the Health Laws Amendment Act, 1977]** No body corporate, other than a body corporate which complies with the provisions of section 22 (6) or 22B (1) (f), shall open, purchase or otherwise acquire a pharmacy in which the business of a retail pharmacy is carried on, or acquire any share in such pharmacy.”.

WYSIGINGSWET OP APTEKERS, 1985

Wet No. 69, 1985

stel is deur die Suid-Afrikaanse Geneeskundige en Tandheelkundige Raad bedoel in artikel 5 (1) (c) of die Suid-Afrikaanse Raad op Verpleging bedoel in artikel 5 (1) (d), skriftelik sy bedanking by **[daardie raad]** die betrokke raad indien; of”.

6. Artikel 14 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (e) van subartikel (1) deur die volgende paragraaf te vervang:

“(e) ’n register van regspersone waarin die naam, adres, registrasienommer en datum van registrasie van iedere regspersoon (behalwe ’n korporasie) wat ingevolge hierdie Wet as ’n apteker sake doen, asook die naam van die besturende direkteur bedoel in artikel 22 (1) (a), ingeskryf moet word;”;

(b) deur na genoemde paragraaf (e) die volgende paragraaf in te voeg:

“(eA) ’n register van korporasies waarin die naam, adres, registrasienommer en datum van registrasie van iedere korporasie wat ingevolge hierdie Wet as ’n apteker sake doen, asook die naam van die bestuurder bedoel in artikel 22B (1) (a), ingeskryf moet word;”.

Wysiging van artikel 14 van Wet 53 van 1974, soos gewysig deur artikel 5 van Wet 20 van 1979.

7. (1) Artikel 21 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Iemand wat of erkenning verkry het vir die eerste jaar van studie vir ’n graad of diploma in farmasie aan ’n inrigting wat deur die raad goedgekeur is en wat as ’n aptekerstudent geregistreer is, of vir die tydperk wat die raad bepaal ingevolge die bepalings van artikel 27 van die Wet op Geneeshere, Tandartse en Aptekers, 1928 (Wet No. 13 van 1928), as ’n ingeboekte leerling by ’n apteker in die Republiek gedien het, of in besit is van ’n in subartikel (3) bedoelde kwalifikasie, kan, by betaling van die voorgeskrewe gelde, as ’n aptekers-assistent geregistreer word.”; en

(b) deur die volgende subartikel by te voeg:

“(3) Die raad kan by kennisgewing in die *Staatskoerant* reëls uitvaardig betreffende die erkenning deur die raad van ’n kwalifikasie verwerf in die Republiek wat aan die besitter daarvan die reg verleen op registrasie as ’n aptekersassistent, en die voorwaardes onderworpele waaraan sodanige registrasie kan geskied.”.

Wysiging van artikel 21 van Wet 53 van 1974, soos vervang deur artikel 8 van Wet 20 van 1979 en gewysig deur artikel 1 van Wet 39 van 1982.

(2) Subartikel (1) word geag op 1 Januarie 1984 in werking te getree het.

8. Artikel 22 van die Hoofwet word hierby gewysig deur die woorde wat paragraaf (a) van subartikel (1) voorafgaan deur die volgende woorde te vervang:

“(1) Ondanks andersluidende bepalings in hierdie Wet kan ’n regspersoon (behalwe ’n korporasie) op die volgende voorwaardes, maar nie anders nie, in die Republiek as ’n apteker sake doen—”.

Wysiging van artikel 22 van Wet 53 van 1974, soos gewysig deur artikel 9 van Wet 36 van 1977, artikel 9 van Wet 20 van 1979 en artikel 2 van Wet 39 van 1982.

9. Artikel 22A van die Hoofwet word hierby gewysig deur 55 subartikel (1) deur die volgende subartikel te vervang:

“(1) **[Vanaf die inwerkingtreding van die Wysigingswet op Gesondheidswetgewing, 1977, mag]** Geen regspersoon, behalwe ’n regspersoon wat aan die bepalings van artikel 22 (6) of 22B (1) (f) voldoen, mag ’n apteek waarin sake as ’n kleinhandelsapteek gedoen word, open, aankoop of andersins verkry of ’n aandeel in sodanige apteek verkry nie.”.

Wysiging van artikel 22A van Wet 53 van 1974, soos ingevoeg deur artikel 10 van Wet 36 van 1977.

Act No. 69, 1985

PHARMACY AMENDMENT ACT, 1985

Insertion of
section 22B in
Act 53 of 1974.

10. The following section is hereby inserted in the principal Act after section 22A:

"Corporation
carrying on
business as
pharmacist.

- 22B.** (1) Notwithstanding anything to the contrary contained in this Act, a corporation may carry on business as a pharmacist in the Republic on the following conditions:
- (a) (i) The corporation shall have as the manager of its business in the Republic a pharmacist who resides in the Republic and who is not engaged in a pharmacy business which does not belong to the said corporation either alone or in partnership with another person;
 - (ii) the manager may be a director (excluding a managing director) of a body corporate referred to in section 22;
 - (iii) the manager may with the prior written consent of the council perform an act contemplated in section 29 (2) in a pharmacy which does not belong to the corporation of which he is manager;
 - (b) the council may cancel any registration contemplated in section 14 (1) (eA) and the certificate issued in respect thereof if—
 - (i) the manager contemplated in paragraph (a) ceases to comply with any of the requirements set out in that paragraph, or ceases to be manager of the pharmacy business of the corporation in the Republic or to act as such;
 - (ii) after an inquiry held under section 39, the council finds that a member of the corporation who is a pharmacist or the corporation itself has contravened any provision of this Act;
 - (iii) the corporation disposes of the whole or any part of its interest in the retail pharmacy business in respect of which it is registered under section 14 (1) (eA) to any person other than a pharmacist, or if any person other than a pharmacist acquires any interest in the corporation carrying on business as a retail pharmacist; or
 - (iv) the corporation, subject to the provisions of subsection (4) (c), no longer complies with the provisions of paragraph (f);
 - (c) a corporation shall not carry on business as a pharmacist unless it and its manager are registered under section 14 (1) (eA) and unless the person who is registered as manager in fact manages the business of the corporation and complies with the requirements set out in paragraph (a) in respect of such manager: Provided that the corporation may nevertheless carry on the business of a pharmacist for a period of 30 days from the time when the said person ceases to be manager, or to act as such, or ceases in fact to manage the business of the corporation, or is for any cause unable to act as manager, or ceases to comply with the requirements set out in paragraph (a);
 - (d) the name of a corporation carrying on business as a retail pharmacist shall, subject to the provisions of the Close Corporations Act, 1984 (Act No. 69 of 1984), consist solely of the name or names of any of the members or former members of the corporation or of a company which has been converted into such a corporation, or of persons who carried on, either for their own

WYSIGINGSWET OP APTEKERS, 1985

Wet No. 69, 1985

10. Die volgende artikel word hierby in die Hoofwet na artikel 22A ingevoeg:

Invoeging van
artikel 22B in
Wet 53 van 1974.

- “Korporasie
wat as ap-
teker sake
doen.
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- 22B. (1)** Ondanks andersluidende bepalings van hierdie Wet kan 'n korporasie op die volgende voorwaardes in die Republiek as 'n apteker sake doen:
- (a) (i) Die korporasie moet as die bestuurder van sy saak in die Republiek 'n apteker hê wat in die Republiek woon en wat nie werksaam is nie in 'n aptekersaak wat nie aan bedoelde korporasie, of alleen of in vennootskap met 'n ander persoon, behoort nie;
- (ii) die bestuurder kan 'n direkteur (uitgesonderd 'n besturende direkteur) van 'n regspersoon bedoel in artikel 22 wees;
- (iii) die bestuurder kan met die vooraf verkreë skriftelike toestemming van die raad 'n handeling bedoel in artikel 29 (2) verrig in 'n apteek wat nie aan die korporasie waarvan hy bestuurder is, behoort nie;
- (b) die raad kan enige registrasie bedoel in artikel 14 (1) (eA) en die sertifikaat uitgereik ten opsigte daarvan intrek indien—
- (i) die bestuurder bedoel in paragraaf (a) ophou om te voldoen aan enige van die vereistes wat in daardie paragraaf uiteengesit is, of ophou om bestuurder van die korporasie se aptekersaak in die Republiek te wees of om as sodanig op te tree;
- (ii) die raad, na ondersoek gehou kragtens artikel 39, bevind dat 'n lid van die korporasie wat 'n apteker is of die korporasie self 'n bepaling van hierdie Wet oortree het;
- (iii) die korporasie die geheel of 'n deel van sy belang in die kleinhandelsaptekersaak ten opsigte waarvan hy kragtens artikel 14 (1) (eA) geregistreer is, aan 'n ander persoon as 'n apteker vervreem, of indien 'n ander persoon as 'n apteker 'n belang verkry in die korporasie wat as kleinhandelsapteker sake doen; of
- (iv) die korporasie, behoudens die bepalings van subartikel (4) (c), nie meer aan die bepalings van paragraaf (f) voldoen nie;
- (c) 'n korporasie doen nie sake as 'n apteker nie tensy hy en sy bestuurder kragtens artikel 14 (1) (eA) geregistreer is en tensy die persoon wat as bestuurder geregistreer is inderdaad die saak van die korporasie bestuur en voldoen aan die vereistes wat in paragraaf (a) ten opsigte van so 'n bestuurder uiteengesit is: Met dien verstande dat die korporasie nietemin kan voortgaan om as apteker sake te doen vir 'n tydperk van 30 dae vanaf die tydstop waarop genoemde persoon ophou om bestuurder te wees, of as sodanig op te tree, of ophou om inderdaad die saak van die korporasie te bestuur, of om enige rede nie in staat is om as bestuurder op te tree nie, of ophou om te voldoen aan die vereistes uiteengesit in paragraaf (a);
- (d) die naam van 'n korporasie wat as kleinhandelsapteker sake doen, moet, behoudens die bepalings van die Wet op Beslote Korporasies, 1984 (Wet No. 69 van 1984), uitsluitlik bestaan uit die naam of name van lede of voormalige lede van die korporasie of van 'n maatskappy wat omskep is in so 'n korporasie, of van persone wat, hetsy vir eie rekening of in vennootskap, enige apte-

Act No. 69, 1985

PHARMACY AMENDMENT ACT, 1985

account or in partnership, any pharmacy business which may reasonably be regarded as the predecessor of the business of the corporation;

- (e) every pharmacy in which such a corporation carries on business shall be conducted under the continuous personal supervision of a pharmacist whose name shall be displayed conspicuously over the main entrance of that pharmacy; 5
- (f) (i) only a natural person who is a pharmacist may hold a member's interest in such a corporation: Provided that if that person dies or ceases to qualify so to hold an interest in the corporation, any member's interest held by him prior to his decease or disqualification, may continue to be held by his estate or by him, as the case may be, for a period of 12 months from his decease or disqualification or for such longer period as the council may determine; 10 15
- (ii) no voting rights, except in respect of a resolution enabling the corporation to comply with the provisions of this section or to dispose of its undertaking or assets or any part thereof, shall attach to any interest held in terms of the proviso to subparagraph (i). 20 25

(2) A corporation, other than a corporation contemplated in subsection (4), desiring to be registered as a corporation entitled to carry on business as a pharmacist in terms of this section, shall in the prescribed manner, specifying the prescribed particulars, apply to the council for registration. 30

(3) If any person who holds a member's interest in a corporation contemplated in this section, disposes of that interest or any part thereof to any person who is not a member of the corporation, or if any person who is not a member of the corporation, acquires a member's interest in the corporation, the manager of the corporation shall within 30 days after the time of that disposal or acquisition inform the registrar in writing of the name and address of each person to whom that interest has been disposed of or who has acquired that interest, as the case may be. 35 40

(4) (a) A company which at the commencement of this section carried on business as a pharmacist in terms of this Act and which after that commencement, while so carrying on business, is converted into a corporation, may, if it complies with the conditions in respect of a corporation stated in this subsection, continue to carry on business as a pharmacist. 45 50

- (b) If the manager of such a converted corporation within 60 days after that conversion submits to the registrar— 55
- (i) a copy of the founding statement of the corporation;
 - (ii) a list of the names and addresses of the members of the corporation stating which of those members are pharmacists;
 - (iii) the name and address of the manager of the corporation; 60
 - (iv) the original registration certificate issued in terms of section 14 (1);
 - (v) proof to the satisfaction of the registrar that the person or persons holding an interest in the corporation is or are the same person or 65

WYSIGINGSWET OP APTEKERS, 1985

Wet No. 69, 1985

kersaak gedryf het wat redelikerwys as voorganger van die saak van die korporasies beskou kan word;

5 (e) elke apteek waarin so 'n korporasie sake doen, moet gedryf word onder die voortdurende persoonlike toesig van 'n apteker wie se naam op 'n opvallende wyse bo die hoofingang van daardie apteek aangebring moet wees;

10 (f) (i) slegs 'n natuurlike persoon wat 'n apteker is, mag 'n ledebelang in so 'n korporasie hou: Met dien verstande dat indien daardie persoon te sterwe kom of ophou om te kwalifiseer om aldus 'n belang in die korporasie te hou, enige ledebelang wat voor sy afsterwe of diskwalifikasie deur hom gehou is, nog deur sy boedel of deur hom, na gelang van die geval, gehou kan word vir 'n tydperk van 12 maande vanaf sy afsterwe of diskwalifikasie of vir die langer tydperk wat die raad bepaal.

15 (ii) daar is geen stemreg, behalwe ten opsigte van 'n besluit waarby die korporasie in staat gestel word om te voldoen aan die bepalings van hierdie artikel of om sy onderneming of bates of enige deel daarvan van die hand te sit, verbonde aan 'n belang wat ingevolge die voorbehoudsbepaling by subparagraaf (i) gehou word nie;

20 (2) 'n Korporasie, behalwe 'n korporasie bedoel in subartikel (4), wat wens om geregistreer te word as 'n korporasie wat geregtig is om kragtens hierdie artikel as 'n apteker sake te doen, moet op die voorgeskrewe wyse, met vermelding van die voorgeskrewe besonderhede, by die raad om registrasie aansoek doen.

25 (3) Indien enige persoon wat 'n ledebelang in 'n korporasie bedoel in hierdie artikel het, daardie belang of enige deel daarvan aan 'n persoon wat nie lid van die korporasie is nie, vervreem, of indien enige persoon wat nie 'n lid van die korporasie is nie, 'n ledebelang in die korporasie verkry, moet die bestuurder van die korporasie binne 30 dae vanaf die tydstip van daardie vervreemding of verkryging die registrateur skriftelik in kennis stel van die naam en adres van elke persoon aan wie die belang vervreem is of wat die belang verkry het, na gelang van die geval.

30 (4) (a) 'n Maatskappy wat by die inwerkingtreding van hierdie artikel as 'n apteker kragtens hierdie Wet sake gedoen het en wat na daardie inwerkingtreding terwyl hy aldus sake doen in 'n korporasie omskep word, kan, indien hy voldoen aan die voorwaardes ten opsigte van 'n korporasie genoem in hierdie subartikel, voortgaan om as 'n apteker sake te doen.

35 (b) Indien die bestuurder van so 'n omskepte korporasie binne 60 dae na die omskepping—

40 (i) 'n afdruk van die stigtingsverklaring van die korporasie;

45 (ii) 'n lys van die name en adresse van die lede van die korporasie met vermelding van wie van die lede aptekers is;

50 (iii) die naam en adres van die bestuurder van die korporasie;

55 (iv) die oorspronklike registrasiesertifikaat uitgereik ingevolge artikel 14 (1);

60 (v) bewys ten genoë van die registrateur dat die persoon of persone wat 'n belang in die korporasie hou dieselfde persoon of per-

Act No. 69, 1985

PHARMACY AMENDMENT ACT, 1985

persons who was or were a shareholder or shareholders of the body corporate so converted and the percentage interest in the corporation of each such person or each of such persons is the same as his or their percentage shareholding in the body corporate so converted.

the registrar shall register that corporation as a corporation that may carry on business as a pharmacist in the Republic.

(c) The provisions of subsection (1) (b) (iv) and (f) do not apply to a corporation which has been converted in terms of paragraph (a) and which prior to that conversion was not obliged in terms of section 22 to comply with the provisions of section 22 (6).

(5) A manager contemplated in subsection (1) (a) shall be responsible to the council for any act performed by or on behalf of the corporation in question (including any omission to perform an act required to be performed by or on behalf of the corporation in question) which may involve disciplinary action by the council in terms of Chapter V, unless he satisfies the council that the responsibility for that act rests upon a pharmacist other than himself employed by the corporation.

(6) A contravention of or failure to comply with any provision of this section, or a refusal or failure to answer any enquiry made by or on behalf of the council as to the name of the manager or any member of, or of any other person employed by, a corporation contemplated in this section, shall be an offence, and a person shall on conviction thereof be liable to a fine not exceeding R500."

Amendment of section 28 of Act 53 of 1974, as substituted by section 4 of Act 20 of 1983.

11. Section 28 of the principal Act is hereby amended—

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

"(1) (a) The **[Minister]** council may from time to time **[on the recommendation of the board, prescribe]** by notice in the *Gazette* make rules providing for the recognition by the council of the degrees, diplomas or certificates which may be registered as additional qualifications, **[and the specialities which may be registered as specialities]** and only qualifications **[and specialities]** so **[prescribed]** recognized shall be registrable under this section.

(b) The Minister may from time to time, on the recommendation of the council, prescribe the specialities which may be registered as specialities, and only specialities so prescribed shall be registrable under this section."

(b) by the substitution for subsection (2) of the following subsection:

"(2) Any person who desires to have a degree, diploma or certificate other than the degree, diploma or certificate by virtue of which he has in the first instance been registered, or who desires to have a prescribed speciality contemplated in subsection (1), registered, shall apply to the registrar, submitting such documentary proof that he holds the additional qualification in question as the board may require, or, in the case of an application for registration of a speciality, submitting proof that he complies with the prescribed requirements, and if the registrar is satisfied that such additional qualification is a degree, diploma or certificate

WYSIGINGSWET OP APTEKERS, 1985

Wet No. 69, 1985

sone is wat 'n aandeelhouer of aandeelhouers was van die regspersoon wat aldus omskep is en die persentasie belang in die korporasie van elke sodanige persoon of elkeen van sodanige persone dieselfde is as sy of hulle persentasie aandeelhouding in die regspersoon wat aldus omskep is,

aan die registrateur voorlê, moet die registrateur daardie korporasie registreer as 'n korporasie wat in die Republiek sake as 'n apteker mag doen.

(c) Die bepalings van subartikel (1) (b) (iv) en (f) is nie van toepassing nie op 'n korporasie wat ingevolge paragraaf (a) omskep is en wat voor die omskepping nie ingevolge artikel 22 verplig was om aan die bepalings van artikel 22 (6) te voldoen nie.

(5) 'n Bestuurder bedoel in subartikel (1) (a) is teenoor die raad verantwoordelik vir 'n handeling deur of namens die betrokke korporasie verrig (met inbegrip van 'n versuim om 'n handeling te verrig wat deur of namens die betrokke korporasie verrig moet word) wat tugstappe deur die raad ingevolge Hoofstuk V tot gevolg kan hê, tensy hy die raad oortuig dat die verantwoordelikheid vir daardie handeling berus by 'n ander apteker as hyself in diens van die korporasie.

(6) 'n Oortreding van 'n bepaling van hierdie artikel of 'n versuim om daaraan te voldoen, of 'n weiering of versuim om 'n navraag deur of namens die raad gedoen aangaande die naam van die bestuurder of enige lid van, of enige ander persoon in diens van, 'n korporasie bedoel in hierdie artikel, te beantwoord, maak 'n misdryf uit, en iemand is by skuldigebevinding daaraan strafbaar met 'n boete van hoogstens R500."

11. Artikel 28 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) (a) Die **[Minister]** raad kan van tyd tot tyd **[op aanbeveling van die raad]** by kennisgewing in die Staatskoerant reëls uitvaardig wat voorsiening maak vir die erkenning deur die raad van die grade, diplomas of sertifikate **[voorskryf]** wat as addisionele kwalifikasies **[en die spesialiteite wat as spesialiteite]** geregistreer kan word, en slegs kwalifikasies **[en spesialiteite]** wat aldus **[voorgeskryf]** erken is, kan kragtens hierdie artikel geregistreer word.

(b) Die Minister kan van tyd tot tyd op aanbeveling van die raad die spesialiteite wat as spesialiteite geregistreer kan word, voorskryf, en slegs spesialiteite wat aldus voorgeskryf is, kan kragtens hierdie artikel geregistreer word."

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Iemand wat 'n ander graad, diploma of sertifikaat as die graad, diploma of sertifikaat op grond waarvan hy in die eerste plek geregistreer is, of wat 'n in subartikel (1) beoogde voorgeskrewe spesialiteit, geregistreer wil hê, moet by die registrateur aansoek doen en die dokumentêre bewys dat hy die betrokke addisionele kwalifikasie besit, voorlê wat deur die raad vereis word, of, in die geval van 'n aansoek om registrasie van 'n spesialiteit, die bewyse voorlê dat hy aan die voorgeskrewe vereiste voldoen, en indien die registrateur oortuig is dat bedoelde addisionele kwalifikasie

Wysiging van artikel 28 van Wet 53 van 1974, soos vervang deur artikel 4 van Wet 20 van 1983.

Act No. 69, 1985

PHARMACY AMENDMENT ACT, 1985

[prescribed] recognized in terms of subsection (1), or, in respect of a speciality, that such speciality has been prescribed and that the prescribed requirements have been complied with, he shall, upon payment of the prescribed fee, cause such degree, diploma or certificate, 5 or speciality, as the case may be, to be entered in the register.”.

Amendment of section 35 of Act 53 of 1974, as amended by section 11 of Act 20 of 1979.

12. Section 35 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subject to the provisions of **[section]** sections 22 and 10 22B, any member of a partnership, society or other association of persons the members of which are not each individually registered as a pharmacist, who uses in respect of such partnership, society or association of persons any name, title, description, symbol or descriptive term referred to in section 29 (1), shall be guilty of an offence and on conviction liable to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment: Provided that any name, title, description, symbol or descriptive term lawfully 20 used in respect of such partnership, society or association of persons immediately prior to the date of commencement of this Act may be continued to be so used for a period to be determined by the Minister after consultation with the **[board]** council, and notified in the *Gazette*.”. 25

Amendment of section 36 of Act 53 of 1974.

13. Section 36 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) the inclusion in the name, title or description of any pharmacy business of the surname of an owner thereof, 30 or, in the case of such a business wholly owned by a body corporate referred to in section 22 or 22B, of the surname of any director thereof or of a member of the corporation, as the case may be, who is a pharmacist;”.

Amendment of section 49 of Act 53 of 1974, as amended by section 11 of Act 36 of 1977, section 18 of Act 20 of 1979 and section 5 of Act 20 of 1983.

14. Section 49 of the principal Act is hereby amended— 35

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

“(a) the practice of pharmacy, 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 and the trading activities of a pharmacist, including the goods or class of goods in which the pharmacist may not deal on the premises where the business of a pharmacist is conducted;”;

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

“(d) any fees payable under this Act (including annual fees in respect of any pharmacy or fees in respect of the registration of any pharmacy or of any person as a pharmacist intern, pharmacy student, pharmaceutical technician, pharmacist's assistant or pharmaceutical auxiliary personnel member or of a body corporate carrying on business as a pharmacist or of a managing director of any such body 50 corporate or of a manager of a corporation) and exemption from the payment of any such fees;”;

and 55

WYSIGINGSWET OP APTEKERS, 1985

Wet No. 69, 1985

5 'n graad, diploma of sertifikaat is wat ingevolge subartikel (1) **[voorgeskryf]** erken is, of, ten opsigte van 'n spesialiteit, dat so 'n spesialiteit voorgeskryf is en dat aan die voorgeskrewe vereistes voldoen is, laat hy, by betaling van die voorgeskrewe gelde, daardie graad, diploma of sertifikaat, of spesialiteit, na gelang van die geval, in die register inskryf."

12. Artikel 35 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

10 "(2) Behoudens die bepalings van **[artikel]** artikels 22 en 22B is 'n lid van 'n vennootskap, vereniging of ander genootskap van persone waarvan die lede nie elkeen afsonderlik as 'n apteker geregistreer is nie, wat ten opsigte van bedoelde vennootskap, vereniging of genootskap van persone enige naam, titel, beskrywing, teken of beskrywende uitdrukking bedoel in artikel 29 (1) gebruik, skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van hoogstens vyfhonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens twaalf maande of met daardie boete sowel as daardie gevangenisstraf: Met dien verstande dat die gebruik van 'n naam, titel, beskrywing, teken of beskrywende uitdrukking wat onmiddellik voor die inwerkingtreding van hierdie Wet wettiglik ten opsigte van so 'n vennootskap, vereniging of ander genootskap van persone gebruik is, voortgesit kan word vir 'n tydperk wat die Minister, na oorlegpleging met die raad, bepaal en wat in die Staatskoerant bekend gemaak word."

Wysiging van artikel 35 van Wet 53 van 1974, soos gewysig deur artikel 11 van Wet 20 van 1979.

13. Artikel 36 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:

30 "(a) die insluiting in die naam, titel of beskrywing van 'n aptekersaak van die familienaam van 'n eienaar daarvan, of, in die geval van so 'n saak wat geheel die eiendom is van 'n regspersoon bedoel in artikel 22 of 22B, van die familienaam van 'n direkteur daarvan of van 'n lid van die korporasie, na gelang van die geval, wat 'n apteker is nie;"

Wysiging van artikel 36 van Wet 53 van 1974.

14. Artikel 49 van die Hoofwet word hierby gewysig—

40 (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

45 "(a) die beroepsgebruik van 'n apteker, die dryf van 'n aptekersaak **[en]**, die tarief van gelde wat betaalbaar is aan 'n apteker ten opsigte van professionele dienste deur hom gelewer en die handelsaktiwiteite van 'n apteker, met inbegrip van die goedere of klas goedere waarin 'n apteker nie op die perseel waar die aptekersaak gedryf word, mag handel nie;"

Wysiging van artikel 49 van Wet 53 van 1974, soos gewysig deur artikel 11 van Wet 36 van 1977, artikel 18 van Wet 20 van 1979 en artikel 5 van Wet 20 van 1983.

50 (b) deur paragraaf (d) van subartikel (1) deur die volgende paragraaf te vervang:

55 "(d) gelde wat kragtens hierdie Wet betaalbaar is (met inbegrip van jaarlikse gelde ten opsigte van 'n apteek of gelde ten opsigte van die registrasie van 'n apteek of van iemand as 'n apteker-intern, aptekerstudent, farmaseutiese tegnikus, aptekersassistent of farmaseutiese hulppersoneellid of van 'n regspersoon wat as apteker sake doen of van 'n besturende direkteur van so 'n regspersoon of van 'n bestuurder van 'n korporasie) en vrystelling van betaling van sodanige gelde;" en

60

Act No. 69, 1985

PHARMACY AMENDMENT ACT, 1985

(c) by the substitution for paragraph (g) of subsection (1) of the following paragraph:

“(g) the information to be furnished to the registrar by pharmacists, including pharmacists who are owners or managers of pharmacies or directors of bodies corporate or members or managers of corporations carrying on business in the Republic as pharmacists;”.

Substitution of
“board” in
Act 53 of 1974.

15. (1) The principal Act is hereby amended by the substitution for the word “board” wherever it occurs, except in section 10 2, of the word “council”.

(2) The South African Pharmacy Council mentioned in section 2 (1) of the principal Act is for all purposes deemed to be and at all times to have been the South African Pharmacy Board contemplated in the said section 2 (1) before the substitution thereof by section 2 of this Act, and any reference in any law or elsewhere to the South African Pharmacy Board shall be construed accordingly.

Validation of cer-
tain regulations.

16. Any regulation purporting to have been made before the commencement of this Act under section 49 of the principal Act 20 and which could have been made under that section as amended by section 15 of this Act, is deemed to have been made at the commencement of this Act and to be in force from that date.

Short title and com-
mencement.

17. (1) This Act is called the Pharmacy Amendment Act, 1985, and comes into operation, except in the case of section 7, 25 on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act.

WYSIGINGSWET OP APTEKERS, 1985

Wet No. 69, 1985

(c) deur paragraaf (g) van subartikel (1) deur die volgende paragraaf te vervang:

5 “(g) die inligting wat aan die registrateur verstrekk moet word deur aptekers, met inbegrip van aptekers wat eienaars of bestuurders is van apteke of direkteure of besturende direkteure is van regspersone of lede of bestuurders is van korporasies wat as aptekers in die Republiek sake doen;”.

10 15. (1) Die Engelse teks van die Hoofwet word hierby gewysig deur die woord “board”, waar dit ook al voorkom behalwe in artikel 2, deur die woord “council” te vervang. Vervanging van “board” in Engelse teks van Wet 53 van 1974.

(2) Die “South African Pharmacy Council” genoem in artikel 2 (1) van die Hoofwet word vir alle doeleindes geag te wees en te alle tye te gewees het die “South African Pharmacy Board” 15 bedoel in genoemde artikel 2 (1) voordat dit deur artikel 2 van hierdie Wet vervang is, en ’n verwysing in ’n wet of elders na die “South African Pharmacy Board” moet dienoooreenkomstig uitgê word.

20 16. Enige regulasie wat voor die inwerkingtreding van hierdie Wet heet uitgevaardig te wees kragtens artikel 49 van die Hoofwet en wat kragtens daardie artikel soos gewysig deur artikel 15 van hierdie Wet uitgevaardig sou kon word, word geag by die inwerkingtreding van hierdie Wet uitgevaardig te wees en vanaf daardie datum van krag te wees. Geldigverklaring van sekere regulasies.

25 17. (1) Hierdie Wet heet die Wysigingswet op Aptekers, 1985, en tree, behalwe in die geval van artikel 7, in werking op ’n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal. Kort titel en inwerkingtreding.

(2) Verskillende datums kan aldus bepaal word ten opsigte 30 van verskillende bepalings van hierdie Wet.

