

SAINT LUCIA

No. 8 of 2003

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I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

20th January, 2003.

SAINT LUCIA

No. 8 of 2003

AN ACT to establish the Pharmacy Council, to provide for the registration of pharmacists, pharmacies and authorised sellers of poisons, to regulate the supply of drugs and poisons to the public, and for related matters.

[ON ORDER]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows :

PART I
PRELIMINARY
Division 1

Short Title, Commencement and Establishment

Short title and commencement

1.— (1) This Act may be cited as the Pharmacy Act 2003.

(2) This Act shall come into force on the day to be fixed by the Minister by order published in the *Gazette*.

Interpretation

2.—(1) In this Act —

“authorised seller of poisons” means a person registered as such pursuant to Part II;

“Code of Ethics” means the Code of Ethics contained in the First Schedule;

“Certificate of Inspection” means a certificate issued by a Pharmacy Inspector pursuant to section 54;

“Certificate of Registration” means a certificate issued by the Registrar pursuant to section 38;

“Chairperson” means the Chairperson of the Pharmacy Council elected pursuant to section 5;

“dispensing” when used in relation to drugs or poisons means supplying a medicine or a poison in accordance with a prescription;

“drug” includes any substance or mixture of substances, manufactured, sold or represented for use in —

(a) the diagnosis, treatment, mitigation or prevention of any disease, disorder, abnormal physical or mental state, or their symptoms, in human beings or animals;

(b) the restoration, correction or modification of organic functions in human beings or animals;

(c) disinfection of premises in which food is manufactured, prepared or kept;

“drug procurement and distribution agency” means any person, other than the Pharmaceutical Procurement Service, purchasing drugs in bulk for the purpose of wholesale distribution;

“List of Poisons” means the list published pursuant to section 14 (1);

“member” means a member of the Pharmacy Council appointed pursuant to section 5;

“Minister” means the Minister responsible for Health;

“misconduct” means conduct that, in the opinion of the Pharmacy Council, undermines the honour and dignity of the pharmacy profession, and includes behaviour that falls short of the standards contained in the Code of Ethics;

“pesticides” means any drug used for the control of pests which is therefore regulated by Pesticides and Toxic Chemicals Control Act 2001, No. 15;

“pests” has the same meaning given to it in the Pesticides and Toxic Chemicals Control Act 2001, No. 15;

“Pharmaceutical Procurement Service” means the Organisation of Eastern Caribbean States Eastern Caribbean Drug Service established by Agreement Establishing the Eastern Caribbean Drug Service of June 2, 1989, Antigua and Barbuda;

“pharmacist” means a person registered as such pursuant to Part II;

“pharmacy” means premises or that part of it that is registered for use for the practice of pharmacy pursuant to Part II;

“Pharmacy Council” means the Pharmacy Council established pursuant to section 5;

“Pharmacy Inspector” means a person appointed as such pursuant to section 46;

“poison” means a substance, that is dangerous to human or animal health or like, and that is contained in the List of Poisons;

“practice of pharmacy” includes –

- (a) the supply of drugs or poisons in accordance with a prescription given by a duly registered doctor, dentist, veterinarian or other authorised person;
- (b) the compounding, packaging, labelling, storage and dispensing of drugs;
- (c) the provision of non-prescription drugs;
- (d) the provision of health care aids and devices; and
- (e) the provision of information related to drug use;

“prescribed” means prescribed by the Regulations;

“Registers” means the Register of Pharmacists, the Register of Authorised Sellers of Poisons and the Register of Pharmacies kept by the Registrar pursuant to section 37;

“Registrar” means the Registrar of the High Court;

“Regulations” means Regulations made pursuant to section 68.

“Vice Chairperson” means the Vice Chairperson of the Pharmacy Council elected pursuant to section 5;

(2) In this Act a reference to “health care aids and devices” is a reference to items contained in the Second Schedule.

Application

3.— (1) This Act does not apply to pesticides.

(2) Nothing in this Act shall be construed as authorising the manufacture, compounding, supply or possession of controlled drugs contrary to the Drugs (Prevention of Misuse) Act 1988, No. 22 or its replacement.

(3) Nothing in this Act shall be construed as giving the Pharmacy Council responsibility over any activity over which the Pharmaceutical Procurement Service has responsibility.

Administration

4. The Pharmacy Council is responsible for the administration of this Act.

Establishment

5.— (1) There is hereby established a council to be called the Pharmacy Council.

(2) The Pharmacy Council shall comprise seven persons appointed by the Minister as follows —

- (a) the Chief Pharmacist of the Public Service who shall be the Secretary;
- (b) two registered pharmacists from the private sector who, subject to subsection (3), shall be nominated by the Pharmaceutical Association of Saint Lucia Incorporated;
- (c) two professionals, who subject to subsection (3), shall be nominated in accordance with the selection procedure contained in guidelines issued by the Pharmaceutical Association of Saint Lucia Incorporated;

(d) two persons representing the public interest appointed by the Minister.

(3) In the event that the Pharmaceutical Association of Saint Lucia Incorporated shall cease to exist, the Minister shall appoint the persons referred to in subparagraphs (b) and (c).

(4) The Pharmacy Council shall elect a Chairperson and a Vice-Chairperson from among its members.

(5) The Chairperson is the chief executive officer of the Pharmacy Council and shall supervise and direct its work and preside over its meetings.

(6) The Vice-Chairperson shall act if the Chairperson is absent, incapacitated or ineligible to perform his or her duties.

(7) The names of the initial members, their titles, if any, and every change in membership, in the Pharmacy Council shall be published in the *Gazette*.

Tenure and removal

6. A member shall hold office for three years during good behaviour but may be removed by the Minister for cause.

Reappointment

7. A member may be reappointed as member in the same or another capacity.

Alternate members

8.— (1) The Pharmacy Council may appoint a person to be an alternate member for any member, other than the Chairperson.

(2) The alternate member may act as a member if that member is, temporarily absent or incapacitated or ineligible to perform the duties of a member.

Vacancy

9. If a vacancy occurs in its membership, the Pharmacy Council shall appoint a person to fill the vacancy in a manner that is consistent with the requirements in section 5(2) for the composition of the Pharmacy Council.

Head Office

10. The Pharmacy Council shall have a head office in Saint Lucia and may establish other offices within Saint Lucia as it considers desirable.

Quorum

11. Four members of the Pharmacy Council constitute a quorum.

Remuneration

12. A member of the Pharmacy Council shall not be paid remuneration or fees for his or her services as a member, but a member is entitled, within the limits that the Council may establish, to be paid for reasonable travel and other expenses that he or she may incur in connection with the work of the Pharmacy Council.

Division 2*Functions, Duties etc.***Functions**

13. The Pharmacy Council has the following functions —
- (a) to ensure the maintenance of high standards in the practice of pharmacy, in the interest of public health and safety;
 - (b) to foster ethical behaviour among pharmacists in order to uphold the dignity and honour of the profession;
 - (c) to manage and control the registration of pharmacists, pharmacies and authorised sellers of poisons;
 - (d) to discipline pharmacists and authorised sellers of poisons pursuant to this Act;
 - (e) to advise the Minister on —
 - (i) matters relating to the inspection of premises by Pharmacy Inspectors;
 - (ii) the management and control of the pharmaceutical industry in general, including importation of drugs and poisons and their wholesale to private pharmacies;
 - (iii) matters referred to it by the Minister from time to time.

List of Poisons

14.— (1) Within ninety days after the commencement of this Act, the Pharmacy Council shall publish a notice in the *Gazette*, containing a list of all drugs that it deems poisons.

(2) The List of Poisons shall not include any pesticide.

(3) The Pharmacy Council may amend the List of Poisons from time to time, by adding to or deleting from it, by notice published in the *Gazette*.

Directions from Minister

15. The Minister may give to the Pharmacy Council general directions with regard to its functions under this Act that the Minister considers necessary in the public interest, and the Pharmacy Council shall give effect to these directions.

Report to Minister

16. The Pharmacy Council shall give the Minister any information that the Minister may require regarding its operations.

Report of proceedings

17. The Pharmacy Council shall submit to the Minister an annual report of its proceedings during the twelve months ending on 31st day of December, in the year preceding that in which the report is submitted.

Fees

18. The Pharmacy Council may impose reasonable fees for processing applications for registration and any other service that it provides pursuant to this Act.

Committee

19.— (1) The Pharmacy Council may appoint a committee to examine and report to it on any matter relating to any of its functions under this Act.

(2) A committee shall include not less than two members of the Pharmacy Council, and may include persons who are not members.

(3) The Pharmacy Council shall determine the composition and functions of a committee.

Delegation

20.— (1) The Pharmacy Council may delegate, in writing, to a committee or to a member, the exercise of any power or the performance of any duty vested in it by this Act, except the power to delegate under this section.

(2) A delegation under subsection (1) may be revoked or varied in like manner.

Exemption from liability

21. Civil liability or criminal liability shall not attach to any member of the Pharmacy Council in respect of anything done, or omitted, in good faith under the provisions of this Act.

Division 3*Disciplinary and Remedial Measures***Meaning of judge**

22.— (1) In sections 23 to 29 “judge” means a judge or a retired judge, of the High Court or Court of Appeal of any Commonwealth jurisdiction.

(2) A pharmacist may recommend to the Minister, or the Minister may decide, that an inquiry be held to determine whether any member of the Pharmacy Council be subject to disciplinary or remedial measures on any of the following grounds —

- (a) the member has become incapacitated, mentally or physically, from the due execution of his or her duties;
- (b) the member is guilty of misconduct;
- (c) the member has failed in the due execution of his or her duties;
or
- (d) the member has been placed, by conduct or otherwise, in a position that is incompatible with the due execution of his or her office.

(3) If the Minister considers it appropriate that any inquiry be held, a judge shall conduct the inquiry.

Powers of inquiry

23. A judge conducting the inquiry has all the powers, rights and privileges that are vested in the High Court.

Hearing public

24. — (1) Subject to subsections (2) and (3), an inquiry shall be conducted in public.

(2) On application, a judge conducting an inquiry may take any measures or make any order that the judge considers necessary to ensure the confidentiality of the inquiry if the judge is satisfied that financial or

personal or other matters may be disclosed and are of such a nature that the desirability of avoiding public disclosure of those matters in the interest of any person affected, or in the public interest, outweighs the desirability of adhering to the principle that the inquiry be conducted in public.

(3) If the judge considers it appropriate to do so, the judge may take any measures or make any order that the judge considers necessary to ensure the confidentiality of any hearing held in respect of an application referred to in subsection (2).

Rules of evidence

25. A judge conducting an inquiry is not bound by any legal or technical rules of evidence and, in any proceedings of the inquiry, the judge may receive and base a decision on evidence adduced in the proceedings and considered credible or trustworthy in the circumstances of the case.

Notice of inquiry

26. A member of the Pharmacy Council shall be given reasonable notice of the subject-matter of the inquiry and of the time and place of any hearing and shall be given an opportunity, in person or by counsel, to be heard at the hearing, to cross-examine witnesses and to adduce evidence.

Report of inquiry

27.— (1) When an inquiry is completed, the judge who conducted the inquiry shall submit a report of the conclusions of the inquiry to the Minister.

(2) If the judge finds that any of the grounds in subsection 22(2) has been established, the judge may direct in the report that —

- (a) the member of the Pharmacy Council be suspended without remuneration;
- (b) the member of the Pharmacy Council be removed from office;
- (c) remedial measures that the judge considers necessary be taken,

and a copy of the report pursuant to subsection (1) and the reasons for the direction shall be sent to the member of the Pharmacy Council.

Appeal to the High Court

28.— (1) A member of the Pharmacy Council in respect of whom a direction has been made pursuant to section 27 (2) may appeal against it to the High Court.

(2) The appeal shall be lodged before the expiration of twenty-eight days after the day on which notice of the direction is sent to the member.

(3) The appeal shall be by way of rehearing.

(4) The High Court may —

(a) confirm the direction;

(b) vary the direction; or

(c) replace the direction with any other direction that the judge conducting the inquiry has the power to make pursuant to section 27(2).

Action by Minister

29. The Minister shall suspend without remuneration or remove the member, or take any remedial measure directed to be taken by the judge —

(a) if no appeal is lodged, after the expiration of twenty-eight days after the report is sent to the Minister; or

(b) if an appeal is lodged, upon receipt of the direction of the High Court.

PART II

REGISTRATION

DIVISION 1

Requirement for Registration

Pharmacist

30. A person shall not engage in the practice of pharmacy or represent himself or herself to be entitled to engage in the practice of pharmacy, whether or not by the use of the following titles —

(a) pharmacist;

(b) druggist;

(c) pharmaceutical chemist;

(d) dispenser; or

(e) chemist;

unless that person is a pharmacist or is exempt pursuant to section 33.

Authorised seller of poisons

31. A person shall not sell poisons or represent himself or herself as a person entitled to sell poisons, whether as a wholesaler or retailer unless that person is an authorised seller of poisons or is exempt pursuant to this Act.

Premises of pharmacy

32. A person in possession of premises shall not —

- (a) permit their premises to be represented as a pharmacy by any means, such as the use of emblems, signs or titles unless that person is the holder of a Certificate of Registration in respect of those premises;
- (b) permit the premises, or any part of it, to be used as a pharmacy, unless the premises, or the part so used, is registered as a pharmacy;
- (c) operate a pharmacy unless —
 - (i) compounding, dispensing and sale of poisons is under the direct supervision of an authorised seller of poisons;
 - (ii) the practice of pharmacy is under the direct supervision of a registered pharmacist;
 - (iii) there is conspicuously displayed in the pharmacy a valid Certificate of Registration relating to the premises, a Certificate of Registration relating to the pharmacist under whose supervision the practice of pharmacy is carried on and a Certificate of Registration relating to the authorised seller of poisons under whose supervision the compounding dispensing and sale of poisons is carried on.

Exemptions

33.—(1) Medical doctors and veterinarians may be allowed to stock an emergency supply of medicines, provided that, the dispensation is only for forty-eight hours supply of medicines to a patient at any time.

(2) Subsection (1) may be amended by an Order made by the Minister and published in the *Gazette*.

(3) A person licensed as a family Nurse Practitioner pursuant to the Registration of Nurses and Midwives Ordinance 1966 No. 2 may prescribe only those drugs specified in the Third Schedule to that Ordinance.

Division 2*Registration of Pharmacists, Pharmacies and
Authorised Sellers of Poisons***Application**

34.—(1) A person who wishes to engage in the practice of a pharmacist may apply in the prescribed form to the Pharmacy Council to be registered as a pharmacist.

(2) A person who wishes to sell poisons may apply in the prescribed form to the Pharmacy Council to be registered as an authorised seller of poisons.

(3) A person in possession of premises who wishes to operate a pharmacy on these premises may apply in the prescribed form to the Pharmacy Council for registration of the premises as a pharmacy.

(4) An application made pursuant to subsection (1), (2) or (3) shall be accompanied by the prescribed application fee.

Approval

35.— (1) The Pharmacy Council shall approve an application for registration as a pharmacist if the applicant —

- (a) has a degree, certificate or diploma in Pharmacy from an institution recognised by the Pharmacy Council; and
- (b) is of good character.

(2) The Pharmacy Council shall approve an application for registration as an authorised seller of poisons if the Pharmacy Council considers that the applicant is fit to sell the poisons in respect of which the application is made.

(3) The Pharmacy Council shall approve an application for registration of premises as a pharmacy if it is satisfied that the premises complies with the prescribed standards for a pharmacy and is fit for operation as a pharmacy.

Grant of registration

36. Where an application made pursuant to section 34 is approved pursuant to section 35, the Pharmacy Council shall —

- (a) inform the applicant in writing;
- (b) direct the Registrar, by letter accompanied by application documents, to issue a Certificate of Registration and to register the applicant or the premises.

Record of registration

37. The Registrar shall keep in the prescribed form —

- (a) a Register of Pharmacists;
- (b) a Register of Authorised Sellers of Poisons; and
- (c) a Register of Pharmacies.

Certificate of Registration

38.—(1) Where the Registrar has been given a direction pursuant to section 36 the Registrar shall, on payment by the applicant of the prescribed registration fee, register the name of the applicant or the premises in the appropriate register.

(2) The Certificate of Registration shall include —

- (a) the registration number of the applicant;
- (b) the name of the applicant and, in the case of an application for the registration of a pharmacy, the address and description of the premises in respect of which a Pharmacy Certificate of Registration was issued;
- (c) the date of issue;
- (d) the date of the expiration of registration; and
- (e) the address of the Pharmacy Council where complaints can be lodged.

Validity of registration

39. A Certificate of Registration —

- (a) is valid for one year; and
- (b) may be renewable for further periods of one year upon the prescribed application being made and payment of the prescribed annual fee if, the applicant or the premises continues to meet the requirements of section 35.

Rejection

40.—(1) The Pharmacy Council may reject an application made pursuant to section 34, if the criteria for approval in section 35 is not satisfied.

(2) Where an application is rejected pursuant to subsection (1) the Pharmacy Council shall inform the applicant in writing, indicating the reasons for the rejection of the application.

Appeal against decision of Council

41. The applicant may appeal a rejection by the Pharmacy Council pursuant to section 40, to a judge of the High Court in Chambers within 28 days of receipt by the applicant of the reasons for the rejection.

Obligation consequent on registration

42.— (1) A pharmacist shall duly execute his or her duties as pharmacist, complying with prescribed requirements for the practice of pharmacy and with the prescribed requirements relating to the packaging, labelling, storage and dispensing of poisons.

(2) The conduct of a pharmacist shall accord with the principles set out in the Code of Ethics specified in the First Schedule.

(3) An authorised seller of poisons shall comply with the prescribed requirements relating to the packaging, labelling, storage and dispensing of poisons.

(4) A holder of a Certificate of Registration in respect of premises shall ensure that the premises complies with the prescribed standards for pharmacies.

Inspection by public

43.—(1) The Registers shall be open to inspection by members of the public at all reasonable times.

(2) The Registrar shall cause a copy of each Register to be published in the *Gazette* at the times prescribed.

Amendment of register

44.— (1) A person may apply in the prescribed form to the Pharmacy Council for a Register to be amended —

- (a) to correct an inaccuracy; or
- (b) to restore an entry wrongfully removed;

and the Pharmacy Council if satisfied that the application is justified, may direct the Registrar to amend that Register and the Registrar shall amend the Register accordingly.

(2) The Registrar shall remove from the —

- (a) Register of Pharmacists and the Register of Authorised Sellers of Poisons, entries relating to —
 - (i) persons who have died;

- (ii) persons whom the Pharmacy Council directs to be removed pursuant to sections 66 and 67;
- (b) Register of Pharmacies, premises that the Pharmacy Council—
 - (i) deems to be no longer used as a pharmacy; or
 - (ii) considers to be unfit for the operation of a pharmacy having regard to this Act and the Regulations.

(3) If an entry in a register is removed pursuant to subsection (2), a Certificate of Registration relating to that entry is invalid and the holder of the Certificate of Registration shall return it to the Registrar.

(4) The Registrar shall publish in the *Gazette* a notice of the suspension, removal or restoration of a pharmacist, an authorised seller of poisons or premises as a pharmacy within sixty days after the suspension, removal or restoration.

PART III
ENFORCEMENT
DIVISION 1

Appointment, Functions and Powers of Inspectors

Inspectors

45. There shall be as many Pharmacy Inspectors as the Minister considers necessary.

Appointment

46.— (1) A Pharmacy Inspector shall be appointed by the Public Service Commission after consultation with the Pharmacy Council from among the persons who are pharmacists pursuant to this Act.

(2) Notice of every appointment made pursuant to subsection (1) shall be published in the *Gazette*.

Certificate of appointment

47.— (1) The Minister shall cause a card to be issued to every pharmacist appointed to be a Pharmacy Inspector to serve as proof of the appointment.

(2) A Pharmacy Inspector shall produce the card issued pursuant to subsection (1) on entering any premises pursuant to this Act.

Tenure and revocation of appointment

48. A Pharmacy Inspector shall hold office for two years during good behaviour, and his or her appointment may be revoked at any time by the Minister for reasonable cause.

Reappointment

49. A Pharmacy Inspector shall be eligible for reappointment.

Functions

- 50.** A Pharmacy Inspector is responsible for —
- (a) the inspection of premises for the purpose of monitoring compliance with this Act and the Regulations;
 - (b) the investigation of complaints directed to him or her by the Pharmacy Council pursuant to paragraph 55(1)(a); and
 - (c) any other function, related to the purposes of this Act, assigned to the Pharmacy Inspector by the Pharmacy Council or the Minister.

Power of entry and inspection

51.— (1) For the purpose of monitoring compliance with this Act and the Regulations, a Pharmacy Inspector may enter and inspect —

- (a) any premises in respect of which an application for registration under this Act has been made;
 - (b) any premises that is a registered pharmacy;
 - (c) any premises in which the Pharmacy Inspector believes on reasonable grounds that any aspect of the practice of pharmacy is being carried out in contravention of this Act or the Regulations; or
 - (d) over the counter products sold in supermarkets or other shops.
- (2) In carrying out the inspection the Pharmacy Inspector may —
- (a) open and examine any receptacle or package which he believes on reasonable grounds contains an article to which this Act or the Regulations apply;
 - (b) take samples free of charge;
 - (c) require any person to produce for inspection or copying, in whole or in part, any record or document that the Pharmacy Inspector believes on reasonable grounds contains any information relevant to the administration or enforcement of this Act or the Regulations.

(3) The owner or person in charge of premises referred to in subsection (1) and every person found in that place shall give the Pharmacy Inspector all reasonable assistance in the discharge of his or her duties, and shall furnish the Pharmacy Inspector with any information that the Pharmacy Inspector may reasonably require.

Requirement for consent or warrant

52.— (1) A Pharmacy Inspector may not enter a dwelling-place except with the consent of the occupant of the dwelling-place or under the authority of a warrant issued under subsection (2).

(2) A magistrate or judge may issue a warrant authorising a Pharmacy Inspector named in the warrant to enter a dwelling-place, if, on an *ex parte* application, the magistrate or judge is satisfied by information on oath that —

- (a) the circumstances described in section 51(1), entitling the Pharmacy Inspector to enter and inspect, obtains in relation to the dwelling-place;
- (b) entry to the dwelling-place is necessary for any purpose relating to the administration of this Act or the Regulations; and
- (c) entry to the dwelling-place has been refused or that there are reasonable grounds for believing that entry will be refused.

(3) The authorisation to enter may be made subject to conditions specified in the warrant.

(4) A Pharmacy Inspector who executes a warrant issued under this section shall not use force unless the Pharmacy Inspector is accompanied by a police officer and the use of force has been specifically authorised in the warrant.

(5) A police officer shall provide any assistance that the Pharmacy Inspector requests for the purposes of enforcing this Act or the Regulations.

Power to seize

53. A Pharmacy Inspector may seize and detain any sample of a drug or other thing —

- (a) by means of or in relation to which the Pharmacy Inspector believes on reasonable grounds that the Act or Regulations or both are contravened; or

- (b) that the Pharmacy Inspector believes on reasonable grounds will afford evidence in respect of the contravention.

Analysis and Certificate of Inspection

54.— (1) A Pharmacy Inspector may submit, any sample, or part of it, that he or she seizes, to an analyst for analysis or examination.

(2) An analyst who has made an analysis or examination shall issue a report to the Pharmacy Inspector setting out the results.

(3) Subject to subsection (4), the Pharmacy Inspector shall issue a Certificate of Inspection in the prescribed form in respect of any sample seized by him or her pursuant to section 53.

(4) A report issued pursuant to subsection (5) shall be annexed to the Certificate of Inspection and shall form part of the Certificate of Inspection.

(5) A Certificate of Inspection is not admissible in evidence unless it is proved that the Pharmacy Inspector —

- (a) divided the sample into two parts at the time of seizure, or caused it to be so divided, and, in the presence of a witness, gave one part of it to the person from whom it was taken; and
- (b) not less than two weeks before the Certificate of Inspection was introduced into evidence —
- (i) gave notice in writing to the person from whom the sample was taken of the intention to produce the Certificate of Inspection in evidence; and
- (ii) served on that person a copy of the Certificate of Inspection.

(6) A Certificate of Inspection issued under this section is admissible in evidence in a prosecution for a contravention of this Act or the Regulations and in the absence of any evidence to the contrary is proof of the statements contained in it without proof of the signature or the official character of the person appearing to have signed the certificate of Inspection.

Division 2
Enforcement

Investigation of breaches

55.— (1) If a person makes a complaint in writing to the Pharmacy Council, or if the Pharmacy Inspector or a member of the Pharmacy

Council believes on reasonable grounds, that a person is in breach of the Act or the Regulations, the Pharmacy Council may —

- (a) direct a Pharmacy Inspector to determine whether a breach has occurred, and report his or her findings, conclusions and reasons for the conclusions to the Pharmacy Council; or
- (b) subject to sections 57 and 58 conduct an inquiry to determine whether a breach has occurred.

(2) If a person makes a complaint to the Pharmacy Council, or if the Pharmacy Council believes on reasonable grounds that a pharmacist or authorised seller of poisons has become incapacitated, physically or mentally, to properly discharge his or her duties, the Pharmacy Council shall conduct an inquiry to determine whether the pharmacist or authorised seller of poisons should be subject to disciplinary measures.

Search under warrant

56.— (1) Any search required for the purpose of an investigation shall be conducted by the Pharmacy Inspector under a warrant issued pursuant to this section.

(2) A magistrate or a judge may issue a warrant authorising a Pharmacy Inspector named in the warrant to enter and search specified premises, if, on an ex-parte application, the magistrate or judge is satisfied by information on oath, that any aspect of the practice of pharmacy is being carried out in contravention of this Act or the Regulations on the premises.

(3) A Pharmacy Inspector who executes a warrant issued under this section, may exercise the powers described in subsection 51(2) and may seize, in addition to anything mentioned in the warrant —

- (a) anything by means of or in relation to which the Pharmacy Inspector believes on reasonable grounds that this Act or the Regulations have been contravened; or
- (b) anything that the Pharmacy Inspector believes on reasonable grounds will afford evidence in respect of a contravention of this Act or the Regulations.

Powers of inquiry

57.—(1) For the purposes of an inquiry pursuant to section 55, the Pharmacy Council has the power —

- (a) to summon any witnesses, and to require them to —
 - (i) give evidence orally or in writing, and on oath or, if they are persons entitled to affirm in civil matters on solemn affirmation; and

- (ii) produce any documents and things that it considers necessary for the full inquiry into matters before it;
- (b) to make rules governing its procedure;
- (c) to receive any evidence that it considers relevant and trustworthy; and
- (d) to enforce the attendance of witnesses and to compel them to give evidence in the same manner as the High Court in civil cases.

Investigation in private

58. An inquiry pursuant to section 55 shall be conducted in private.

Evidence in other proceedings

59. Statements made by a person in an inquiry, and evidence of the existence of the inquiry, are inadmissible against the person in a court, or in any other proceeding, other than in a prosecution under the Criminal Code for perjury for a statement made to the Pharmacy Council.

Opportunity to put case

60. Before finding that a person has breached the Act or the Regulations the Pharmacy Inspector or the Pharmacy Council shall give the person reasonable opportunity to put his or her case at a hearing.

Security requirements

61.— (1) Subject to this Act, the Pharmacy Inspector, the Pharmacy Council or any person acting on their behalf or under their direction shall not disclose any information that comes to their knowledge in the performance of their duties and functions under the Act.

(2) The Pharmacy Council may disclose or may authorise any person acting on its behalf or under its direction to —

- (a) disclose information that, in the opinion of the Pharmacy Council is necessary to —
 - (i) carry out an investigation under this Act; or
 - (ii) establish the grounds for findings and recommendations contained in any report under this Act; or
- (b) disclose information in the course of a prosecution for an offence under this Act, a prosecution for an offence under the Criminal Code for perjury for a statement made under this Act, a review before the Court under this Act or an appeal from the review.

(3) The Pharmacy Council may disclose to the Attorney General information relating to the commission of an offence against any law in force in Saint Lucia by any person if in the opinion of the Pharmacy Council there is evidence of the offence.

No summons

62.— (1) A member of the Pharmacy Council, or the agent of a member, is neither a competent nor a compellable witness, in respect of any matter coming to the knowledge of the member, or the agent, as a result of performing their duties during an investigation under this Act.

(2) This section does not apply to any proceeding for a statement made under this Act, a review before the Court under this Act or an appeal from the review.

Appeal

63.— (1) A person who is dissatisfied with a decision made by the Pharmacy Inspector under section 55(1)(a) may appeal the decision to the Pharmacy Council.

(2) A person who is dissatisfied with a decision made by the Pharmacy Council pursuant to subsection (1) or to section 55(1)(b) may appeal to a Judge in Chambers whose decision shall be final.

(3) An appeal shall be lodged within ninety days after the decision against which the appeal is brought.

Offences

64.—(1) A person shall not —

- (a) falsely procure the entry of his or her name in any of the Registers;
- (b) allow a Certificate of Registration that has been issued to him or her to be used by another person;
- (c) assault or obstruct a Pharmacy Inspector or fail to give him or her any assistance or information that he or she may require in the performance of his or her duties;
- (d) knowingly give false information to a Pharmacy Inspector or give information that is likely to mislead the Pharmacy Inspector;
- (e) by the offer of any inducement, prevent the Pharmacy Inspector from performing his or her functions;

- (f) open or cause to be opened for operations, the dispensing area of premises registered as a pharmacy unless there is a pharmacist present in the premises.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of five thousand dollars or to imprisonment for a term not exceeding one year or both.

General penalty

65. A person who contravenes a provision of this Act for which no penalty is specified commits an offence and is liable upon conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or to both.

Exercise of discretion

66.—(1) Notwithstanding section 64, if the Pharmacy Inspector or the Pharmacy Council finds, under section 55, that a pharmacist or an authorised seller of poisons is in breach of this Act or the Regulations, and the decision is not appealed, or is confirmed on appeal, the Pharmacy Council may —

- (a) censure the pharmacist or authorised seller of poisons;
- (b) suspend the registration of the pharmacist or authorised seller of poisons for a specified period;
- (c) cause the registration of the pharmacist or authorised seller of poisons to be cancelled by directing the Registrar to remove the pharmacist or the authorised seller of poisons from the relevant register.

(2) In exercising its discretion under this section the Pharmacy Council shall take into consideration the nature of the breach and the circumstances surrounding it.

Removal mandatory

67. The Pharmacy Council shall direct the Registrar to remove from the Register of Pharmacists, any pharmacist, or from the Register of Authorised Sellers of Poisons, any seller of poisons —

- (a) who is incapacitated, whether physically or mentally, from properly discharging the duties of a pharmacist or a seller of poisons respectively; and
- (b) who, despite having received a reminder in the prescribed form fails to pay the prescribed annual fee pursuant to section 39.

PART IV
MISCELLANEOUS

Regulations

68.— (1) The Minister may, after consultation with the Pharmacy Council, make Regulations to give effect to this Act.

(2) Notwithstanding the generality of subsection (1), the Minister may, after consultation with the Pharmacy Council, make Regulations —

- (a) relating to the practice of pharmacy which includes standards and requirements for the packaging, labelling, storage and dispensing of drugs and poisons, and may include exemptions of classes of persons from the restrictions on the practice of pharmacy contained in sections 30 - 33;
- (b) prescribing standards for premises used as pharmacies;
- (c) prescribing the content of the Registers and setting out the details of the procedure for registration of pharmacists, authorised sellers of poisons and pharmacies, including the forms to be used;
- (d) prescribing fees for the certification of premises, registration of pharmacists, authorised sellers of poisons and pharmacies and any service provided by it;
- (e) amending the Code of Ethics;
- (f) relating to the writing of prescriptions;
- (g) relating to the importation and wholesale of drugs and poisons, retail pharmacy businesses and any other aspect of the pharmaceutical industry;
- (h) relating to record keeping by authorised sellers of poisons;
- (i) relating to the procedure for inquiries and appeals under this Act;
- (j) relating to inspections.

Expenses

69.— (1) All expenses incurred in the administration of this Act are to be defrayed out of monies voted by Parliament for the purpose.

(2) All monies received by the Pharmacy Council pursuant to this Act shall be paid into and shall form part of the Consolidated Fund.

Repeal

70. The following are repealed —

- (a) Druggist and Poisons Ordinance 1960, No. 9 of 1960;
- (b) Antibiotics Ordinance 1960, No. 14 of 1960;
- (c) Antibiotics Order 1963 (SRO 36/1963).

Transitional

71. A person registered as a druggist pursuant to section 4 of the Druggists and Poisons Ordinance 1960 shall, without application, be entered by the Registrar on the Register of Pharmacists kept under this Act.

FIRST SCHEDULE

(Section 2, 42, 68 (e))

CODE OF ETHICS

1. A pharmacist's prime concern shall be for the welfare of both patients and public.
2. A pharmacist shall uphold the honour and dignity of the profession and not engage in any activity which may bring the profession into disrepute.
3. A pharmacist shall at all times have regard to the Laws and Regulations applicable to pharmaceutical practice and maintain a high standard of professional conduct. A pharmacist shall avoid any act or omission which would impair confidence in the pharmaceutical profession. When a pharmaceutical service is provided, a pharmacist shall ensure that it is efficient.
4. A pharmacist shall respect the confidentiality of information relating to patients and their families. Such information shall not be disclosed to anyone without the patient's or appropriate guardian's consent except where it is in the best interest of the patient so to do.
5. A pharmacist shall keep abreast of the progress of pharmaceutical knowledge in order to maintain a high standard of professional competence relative to his sphere of activity.
6. A pharmacist shall neither agree to practice under any conditions of service which prevent his professional independence nor impose such conditions on other pharmacists.
7. Publicity for professional services is permitted provided that such publicity does not create an invidious distinction between pharmacists or pharmacies, is dignified and does not bring the profession into disrepute.
8. A pharmacist offering services directly to the public shall do so in premises which reflect the professional character of pharmacy.
9. A pharmacist shall at all times endeavour to cooperate with professional colleagues and members of other health professions so that patients and the public may benefit.

SECOND SCHEDULE

(Section 2 (1) and (2))

AIDS AND DEVICES SOLD IN A PHARMACY

Air Purifiers
Diabetes – Lancets
Meters
Test Strips
Thermometers
Blood Pressure Monitors
Humidifiers
Spacers for Asthma
HIV Test
Cholesterol Test
Pregnancy Test & Ovulation
Colostomy bags
Breast Pumps
Cervical Collars
Elastic Stockings & Supports
Bandages, Dressing & Tapes
Hot & Cold Packs
Ankle, Knee Support, etc.
Wheel chair
Canes
Crutches
Walkers
Cushions
Bed Pans
Syringes
Surgical Blades
Surgical Gloves
Heating Pads
Catheters
Urine Bags
Eye Patches
Gauze
Lint
Surgical Tape
Nebulisers

Passed in the House of Assembly this 12th day of November, 2002.

MATTHEW ROBERTS,
Speaker of the House of Assembly.

Passed in the Senate this 20th day of December, 2002.

HILFORD DETERVILLE,
President of the Senate.