

Newfoundland and Labrador Pharmacy Board



By-Laws

Last Revised November 2019

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Part I By-laws

1. These by-laws may be cited as the Pharmacy Board By-Laws.
2. New by-laws or changes in the by-laws may be enacted from time to time by the board in accordance with section 11 of the act.

Part II Definitions

3. In these by-laws,
 - a) unless the context otherwise requires or a separate definition is provided, words and phrases defined in the *Pharmacy Act, 2012* hereinafter called "the act", or the regulations passed pursuant to the act have the same meaning in these bylaws.
 - b) words imparting the singular shall include the plural and vice versa, words imparting the masculine gender shall include females, and words imparting persons shall include bodies corporate.
 - c) "Registrant" means any person registered with the Board in accordance with sections 14, 15, 16 or 17 of the act.

Part III Members of the Board

4. The board is defined in subsection 5(1) of the act and consists of:
 - a) seven members elected from and by pharmacists in accordance with the by-laws;
 - b) two members appointed by the minister under subsection 6(1) of the act who are not pharmacists;
 - c) two members appointed by the board under subsection 6(2) of the act who are not pharmacists;
 - d) the Dean of the School of Pharmacy of Memorial University of Newfoundland and Labrador;
 - e) a pharmacy technician elected from and by pharmacy technicians in accordance with the by-laws; and
 - f) the Registrar of the board appointed by the other members of the board in accordance with the by-laws, who shall not vote on a matter before the board, its Executive Committee or another committee of the board.

Part IV Board Composition

Electoral Zones and Representation

5. Subject to the act and these by-laws, the board may:
 - a) divide the province into electoral zones for the purpose of nomination for election of members to the board, and the holding of general meetings of the board, and may rearrange the boundaries of such zones and increase or decrease their number, provided that such rearrangement shall not take place more often than once in every two year period; and

- b) specify the number of persons who may be elected as a member or members of the board from the electoral zones, and the number from one zone may be specified to vary from the number from another zone.
6. For the purposes of electing members of the board, Newfoundland and Labrador is divided into seven zones. One member of the board shall be elected from each of the electoral zones, with the exception of Zone 7, from which two members of the board shall be elected. The seven zones are as follows:
 - a) Zone 1 - metropolitan St. John's area, Conception Bay South to Holyrood, and Southern Shore to Trepassey;
 - b) Zone 2 – the Conception Bay North/Trinity South peninsula, beginning at Avondale and extending west to Port Blandford, including Placentia and the Cape Shore to (but not including) Trepassey, the Burin peninsula, the Trinity North/Bonavista South Peninsula;
 - c) Zone 3 – west of Port Blandford to the Hampden junction, and that part of the South Coast that does not include Burgeo and Ramea;
 - d) Zone 4 – west of the Hampden junction including White Bay, Northern Peninsula, Labrador, West Coast extending to Port-aux-Basques, and that part of the South Coast that includes Burgeo and Ramea;
 - e) Zone 5 – pharmacists employed the majority of their time in a hospital;
 - f) Zone 6 – pharmacy technicians; and
 - g) Zone 7 – “at large”
7. In the event a member requires a ruling on the exact limits of zone boundaries, the board's ruling will be final.
8. Elected members of the board shall be elected for a term of three years, which shall commence at the end of the Annual General Meeting of the board at which the results of the election were proclaimed.
9. Inadvertently Omitted
10. Pharmacists are entitled to be nominated and vote in the zone in which they practice the majority of their time and in zone 7 with the exception of:
 - a) pharmacists who practice the majority of their time in a hospital are entitled to be nominated and vote only in zone 5 and zone 7;
 - b) pharmacists who do not have a principal place of practice where the principal place of residence shall decide the zone for nominating and voting purposes; and
 - c) pharmacists who do not practice or reside in the province are entitled to be nominated and vote only in zone 7.
11. Pharmacy technicians are entitled to be nominated and vote only in zone 6.
12. The Registrar shall act as returning officer for the board elections.

Election Procedures

13. The election of board members shall take place each year in accordance with the following schedule.
 - a) Elections for zones 1 and 4 shall be held in the year 2015 and every three years thereafter;
 - b) Elections for zones 2 and 3 shall be held in the year 2016 and every three years thereafter; and
 - c) Elections for zones 5, 6 and 7 shall be held in the year 2017 and every three years thereafter.

14. Nominations shall proceed as follows:
 - a) Registrants shall be advised of their right to nominate at least 90 days prior to the Annual General Meeting of the board.
 - b) Registrants may nominate more than one registrant in their zone.
 - c) Nominations must be signed by at least two registrants entitled to vote in the zone for which the nomination is made and shall bear the consent of the registrant nominated.
 - d) Nominations must include the completed and signed Nomination Declarations form.
 - e) Nominations must be received by the Registrar at least 60 days prior to the Annual General Meeting of the board.
 - f) Registrants are ineligible to be nominated if any of the following are true:
 - i) The registrant is party to an outstanding allegation filed with the board;
 - ii) The registrant has been found guilty of conduct deserving of sanction by an adjudication tribunal and is subject to a decision or order that suspends the respondent; allows or directs the respondent to surrender his or her licence; restricts the respondent's practice; or specifies conditions for the continuing practice of the respondent.
 - iii) The registrant is subject to a settlement agreement or undertaking that suspends the respondent; allows or directs the respondent to surrender his or her licence; restricts the respondent's practice; or specifies conditions for the continuing practice of the respondent.
 - iv) The registrant is an adverse party in litigation against the board, a committee of the board, a panel of a committee of the board, or any of its directors, officers, employees, or agents.
 - v) The registrant is an employee, officer, or director of a pharmacy-related advocacy association.
 - g) Subsections 14.(f)(ii) and (iii) do not apply if a period of six years has passed since the finding, settlement agreement or undertaking, and all restrictions or conditions are lifted.
 - h) Subsection 14.(f)(v) does not apply if the registrant provides an undertaking to the board that he or she will resign from that position if elected to the board.
15. If the number of valid nominations for a zone is equal to or less than the number of members of the board to be elected from that zone, the persons nominated shall be declared elected.
16. If the number of valid nominations for a zone is greater than the number of members of the board to be elected from that zone, an election shall take place and voting shall be conducted by any means that maintains the security and confidentiality of the voting process.
17. If the call for nominations does not produce enough nominees to fill the vacancies, the registrants entitled to vote in the zone shall be so advised and invited to resubmit nominations ("the second call").
18. In the event that no nominations are received within 30 days of the second call, the vacancy shall be filled by an appointment of the board.
19. Registrants shall be advised of their right to vote at least 30 days prior to the Annual General Meeting of the board.
20. Voting results shall be tabulated by the returning officer not less than 7 days prior to the Annual General Meeting of the board.

21. In the case of a tie vote, the Registrar shall immediately conduct a recount, and if the results are not altered must select the successful nominee by random draw.

Vacancies

22. Where a vacancy occurs in the elected membership of the board, the remaining members of the board shall appoint another member from the zone represented by the former member, and the replacement member shall hold office until the next Annual General Meeting, unless the term of office of the replacement member is terminated earlier.
23. Where a vacancy occurs in the appointed membership of the board,
 - a) If the member was appointed by the Minister, the Minister may appoint a person to fill the vacancy, and the replacement member shall hold office for the remainder of the term of the person in whose place the replacement member is appointed, unless the term of the replacement member is terminated earlier.
 - b) If the member was appointed by the board, the board may appoint a person to fill the vacancy, and the replacement member shall hold office for the remainder of the term of the person in whose place the replacement member is appointed, unless the term of the replacement member is terminated earlier.
24. The exercise of the powers of the board shall not be impaired by reason of a vacancy in its membership.

Other

25. If it is later discovered that there was some defect in the election or appointment of a person purporting to be a member of the board, all acts performed by the board shall be as valid and effectual as if that defect had not existed.

Part V Officers of the Board (Executive Committee)

26. The officers of the board shall be referred to as the Executive Committee, and shall consist of:
 - a) the immediate Past-Chair;
 - b) the Chair;
 - c) the Vice-Chair;
 - d) an Executive Member; and
 - e) the Registrar (*ex-officio*).
27. The election of officers is to take place at a meeting of the board to be held within 15 days of the Annual General Meeting.
28. The Vice-Chair and the Executive Member shall be elected by the members of the board from the members of the board by open vote or by secret ballot if requested by any member of the board.
29. The immediate Past-Chair may be a voting member of the Executive so long as he or she is a voting member of the board.

Term of Office

30. The term of office for Executive Committee members shall be as follows:
 - a) The Executive Member shall serve in his/her office for a term of two years or until his/her successor is elected.
 - b) The Vice Chair shall serve in his/her office for a term of two years or until his/her successor is elected. At the conclusion of the Vice-Chair's term of office he/she shall assume the office of Chair.
 - c) The Chair shall serve in his/her office for a term of two years or until his/her successor assumes the office. At the conclusion of the Chair's term of office he/she shall assume the office of immediate Past-Chair.
 - d) The immediate Past-Chair shall serve in his/her office for a term of two years or until his/her successor assumes the office.

Vacancies

31. In the event of a vacancy in the officers of the board, the board shall appoint a replacement at the next meeting of the board, and the replacement member shall hold office for the remainder of the term of the person in whose place the replacement member is elected, unless the term of office of the replacement member is terminated earlier.
32. Where a vacancy occurs in the office of Chair, the Vice-Chair shall immediately assume the office of Chair and shall hold office for the remainder of the term of the previous Chair, unless the term of office of the replacement Chair is terminated earlier.
33. The exercise of powers of the Executive Committee shall not be impaired by reason of a vacancy in its membership, provided there remain three members, two of whom must be elected board members, to exercise such powers.

Powers

34. The Chair shall perform all duties incident to the office of Chair and shall have other powers and duties as may from time to time be assigned to the Chair by the board.
35. The Vice-Chair shall be vested with all powers and shall perform all the duties of the Chair in the absence of the Chair. The Vice-Chair shall also have such other powers and duties as may from time to time be assigned to the Vice-Chair by the board.
36. The Executive Committee shall consider and take action upon all matters delegated to it by the board and all matters which require attention between meetings of the board.
37. In taking action pursuant to Section 36 of these by-laws, the Executive Committee may exercise all the powers of the board subject to any restrictions imposed by resolution of the board or by the act, the regulations or these by-laws.
38. All acts of the Executive Committee shall, if within the scope of its authority, be effective as the acts of the board, unless and until amended or rescinded by the board.
39. If it is later discovered that there was some defect in the election or appointment of a person purporting to be a member of the Executive Committee, all acts performed by the Executive Committee shall be as valid and effectual as if that defect had not existed.

Registrar

40. The board shall appoint the Registrar of the board for such term of office and on such conditions as the board may deem advisable.
41. Employment contracts between the Registrar and the board, which shall include identifying the duties of the Registrar as well as payment for those duties, shall be negotiated by the Executive Committee.
42. The Registrar is responsible for planning and implementing the work of the board, in accordance with the policies and objectives approved by the board.
43. The Registrar is responsible for carrying out the duties and responsibilities conferred on the Registrar by the Pharmacy Act and any regulations passed pursuant to it.
44. The Registrar is responsible for the administration of the board office and its staffing and management, and is accountable to the board with respect to it.
45. The Registrar is responsible to the board for the management and operation of the Apothecary Hall Trust.
46. The Registrar is responsible for controlling matters relating to the finances of the board.
47. The Registrar shall perform such additional duties as may from time to time be required by the board.

Part VI Meetings of the Board

48. The Chair shall preside at all meetings of the Board. The Chair shall regulate the order of such meetings and shall decide all questions of order.
49. At all meetings of the Board, the Robert's Rules of Order shall be observed in addition to the following:
 - a) A quorum of the board is 50% plus one member, one of whom shall be a member appointed to represent the public interest.
 - b) All meetings shall be called to order as soon after the hour of meeting as there shall be a quorum present.
 - c) The Chair may cancel any meeting if there is not a quorum present within 30 minutes after the meeting was due to commence.
 - d) No motion shall be discussed unless it has been seconded.
 - e) All speakers must address the Chair.
 - f) The Chair's decision on a point of order shall be final.
50. While the goal is consensus, at all meetings of the board, a majority vote of the board members present and entitled to vote shall decide any issue before the board.
51. Where there is a tie vote on a motion or resolution of the board, that motion or resolution shall be considered to be defeated.

52. A meeting of the board may be held by use of teleconference or equivalent simultaneous audio or audiovisual means, and in such event, the members participating in such meetings shall be deemed for all purposes to be present at the meeting.
53. A resolution signed by all the board members entitled to attend meetings of the board shall have the same force and effect as a resolution duly passed at a regularly convened meeting of the board.
54. A Board member may waive notice of a meeting of the board in writing, by telephone, facsimile transmission or other electronic means.

Regular Board Meetings

55. The board shall meet not less than three times in each calendar year at such times and places as it may determine.
56. Where possible, board members will be notified at least 14 calendar days prior to each regular meeting of the board.

Special Board Meetings

57. The Chair or a majority of voting board members may call a special meeting of the board, upon notice delivered to all board members, at least twenty-four hours before the time fixed for the meeting, stipulating the business to be considered at such a meeting.

Annual General Meetings

58. The board shall hold an Annual General Meeting at such a time and place as may be decided by the board, to which all pharmacists and pharmacy technicians shall be invited.
59. For all Annual General Meetings, notice of at least 14 calendar days shall be given to all pharmacists and pharmacy technicians and such notice shall contain the particulars of business to be transacted at the meeting.

Executive Committee Meetings

60. The Executive Committee shall meet at the call of the Chair who shall preside at all meetings at which he or she is present. Meetings may also be held at the request of the majority of the Executive Committee.

Part VII Committees and Other Appointments

61. Subject to the act, the regulations and these by-laws, committees appointed by the board shall serve for a term as specified in the committee's terms of reference, or in the absence thereof, at the pleasure of the board.

Auditor

62. The Board shall appoint an auditor or a firm of auditors, who shall be a chartered accountant or a firm of chartered accountants, on an annual basis.

63. The auditor shall examine all accounts, books, and securities of the board and shall submit a statement of the affairs and financial position of the board on an annual basis.
64. The auditor shall receive remuneration as approved by the board.

Solicitor

65. The board may appoint a solicitor or other such agent, as it deems appropriate from time to time.
66. The solicitor shall receive remuneration as approved by the board.

Part VIII Registration and Licensing

Registers

67. The Registrar shall establish and maintain registers for all categories of registration as follows:
 - a) pharmacists;
 - b) pharmacy interns;
 - c) pharmacy students; and
 - d) pharmacy technicians.
68. The Registrar shall establish and maintain a register of all licensed pharmacies.

Information on Registers

69. The register of pharmacists shall contain each pharmacist's:
 - a) proper name;
 - b) home address;
 - c) home telephone number;
 - d) email address;
 - e) place of employment;
 - f) registration type;
 - g) voting zone;
 - h) date of birth;
 - i) gender; and
 - j) notation of any additional authorizations granted by the board.
70. The register of pharmacy interns shall contain each pharmacy intern's:
 - a) proper name;
 - b) home address;
 - c) home telephone number;
 - d) email address;

- e) date of birth; and
 - f) gender.
71. The register of pharmacy students shall contain each pharmacy student's:
- a) proper name;
 - b) home address;
 - c) home telephone number;
 - d) current mailing address;
 - e) current telephone number;
 - f) email address;
 - g) expected year of graduation;
 - h) date of birth; and
 - i) gender.
72. The register of pharmacy technicians shall contain each pharmacy technician's:
- a) proper name;
 - b) home address;
 - c) home telephone number;
 - d) email address;
 - e) place of employment;
 - f) registration type;
 - g) voting zone;
 - h) date of birth; and
 - i) gender.
73. The register of licensed pharmacies shall contain for each pharmacy:
- a) corporate name;
 - b) trading name;
 - c) mailing address;
 - d) telephone number;
 - e) email address;
 - f) zone;
 - g) the name of the pharmacist-in-charge;
 - h) the names of any pharmacists, pharmacy interns, pharmacy students or pharmacy technicians employed by that pharmacy;
 - i) the names, mailing addresses, telephone numbers, email addresses, and professions of all persons who own the pharmacy or partners in a partnership that owns or operates the pharmacy; and

- j) the names, mailing addresses, telephone numbers, email addresses, and professions of all persons who are shareholders of a company that owns or operates the pharmacy, except where the company is a publicly traded corporation.

74. Any registrant who changes his or her place of employment or contact information shall make the necessary change(s) to the register.

Certificate of Initial Registration

75. Once a person's name has been entered in the register of pharmacists or the register of pharmacy technicians, that person shall be given a certificate of initial registration under the seal of the board and signed by the Chair and the Registrar, or those other officers or persons that the board may prescribe.

Annual Certificate of Registration

76. Each year, the Registrar shall issue an annual certificate of registration to a person who has applied and met the requirements of the act and the regulations.

77. An annual certificate of registration shall expire on December 31 of each year or on the effective date of cancellation or suspension of the certificate of registration, whichever date occurs first.

Pharmacy Licence

78. Not less than 90 days before opening a new pharmacy and not less than 30 days before acquiring an existing pharmacy, a corporation, partnership or individual must apply to the board for a pharmacy licence and such application shall include, at a minimum:

- a) the proposed corporate name and trading name of the pharmacy;
- b) the address, telephone number, email address, and zone of the proposed pharmacy;
- c) the name of the proposed pharmacist-in-charge;
- d) the names of any pharmacists, pharmacy interns, pharmacy students, or pharmacy technicians to be employed by the proposed pharmacy, if known at the time of application;
- e) the names, mailing addresses, telephone numbers, email addresses, and professions of all individuals who own or operate the proposed pharmacy, if applicable;
- f) the names, mailing addresses, telephone numbers, email addresses, and professions of all partners in a partnership that owns or operates the proposed pharmacy, if applicable;
- g) the names, mailing addresses, telephone numbers, email addresses, and professions of all persons who are shareholders of a corporation that owns or operates the proposed pharmacy, if applicable, except where the corporation is a publicly traded corporation; and
- h) the proposed date of opening or acquisition of the pharmacy.

79. Prior to approving an application to open a new pharmacy and issuing a pharmacy licence, the Registrar or a designated agent shall:

- a) conduct a pre-opening assessment of the proposed pharmacy to ensure that the pharmacy meets the minimum standards of pharmacy operation and standards of practice approved by the board; and
- b) require the pharmacist-in-charge to rectify any deficiencies noted in the assessment prior to issuing a pharmacy licence.

80. A pharmacy licence shall expire on December 31 of each calendar year or on the effective date of cancellation or suspension of the licence, whichever date occurs first.
81. Each year, the Registrar shall issue an annual pharmacy licence to a pharmacist-in-charge who has applied and met the requirements of the act and the regulations.
82. Any relocation or renovation of an existing pharmacy shall be subject to an application and assessment by the Registrar or a designated agent to ensure that the pharmacy continues to meet the minimum standards of pharmacy operation and standards of practice approved by the board.
83. A pharmacist-in-charge who holds a pharmacy licence shall allow the Registrar or a designated agent to enter the pharmacy with or without notice at any time during the term of the licence for the purpose of ensuring that the pharmacy continues to meet the minimum standards of pharmacy operation and the standards of practice approved by the board.

Part IX Code of Ethics and Professional Misconduct

Code of Ethics

84. The Board adopts a Code of Ethics for registrants.

Professional Misconduct Defined

85. The term professional misconduct for the purposes of considering an allegation or a complaint and the institution of disciplinary proceedings includes but is not limited to including:
 - a) breach of the Code of Ethics or standards of practice approved by the board;
 - b) failure to abide by the terms, conditions or limitations of a certificate of registration;
 - c) practicing pharmacy while not covered by a policy of professional liability insurance acceptable to the board;
 - d) providing false or misleading information or documents to the board with respect to his or her qualifications or eligibility for registration or renewal ;
 - e) falsifying or failing to maintain appropriate patient and prescription records;
 - f) announcing or holding out by a registrant that the registrant has special qualifications that are not in fact possessed by the registrant;
 - g) practicing pharmacy while the ability to practice pharmacy is impaired;
 - h) knowingly permitting the premises in which a pharmacy is located to be used for unlawful purposes;
 - i) knowingly charging or submitting a false or misleading amount for the dispensing of a prescription or for services rendered to a patient;
 - j) charging or submitting an amount or fee for services rendered to a patient that is excessive or unreasonable in relation to the service provided;
 - k) dispensing or selling an excessive, improper or unreasonable amount of a drug;
 - l) improperly using the authority to practice pharmacy;
 - m) having a conflict of interest;

- n) refusing to allow the Registrar or a designated agent to enter at a reasonable time the pharmacy in which the registrant is engaged in the practice of pharmacy for the purpose of an assessment or investigation;
- o) contravening or failing to comply with a term or condition of an undertaking to or agreement with the Registrar or the board;
- p) failing to respond appropriately or within a reasonable time to a written inquiry from the board;
- q) practicing outside of the registrant's area of competence;
- r) displaying a lack of knowledge, skill or professional judgment or showing disregard for the welfare of the public to an extent that demonstrates unfitness to carry out the responsibilities of a pharmacist or pharmacy technician; or
- s) such conduct or acts relevant to the practice of pharmacy that would reasonably be regarded as disgraceful, dishonorable or unprofessional.

Part X Reimbursement of Expenses

86. The board may reimburse the expenses of board members, adjudication tribunal members or other persons attending pre-approved provincial or national meetings as representatives of NLPB, or conducting pre-approved NLPB business in accordance with the Policy on Expense Claims approved by the board.