SEANAD ÉIREANN

AN BILLE CÓGAISÍOCHTA 2007  
PHARMACY BILL 2007

LEASUITHE COISTE  
COMMITTEE AMENDMENTS

[No. 21 of 2007]  
[22 March, 2007]
SECTION 2
*1. In page 9, between lines 3 and 4, to insert the following subsection:

“(4) Subsection (3) shall not apply to sections 63# and 64##.”

# [This is the appropriate reference if amendment No. 61 is accepted.]

## [This is the appropriate reference if amendment No. 62 is accepted.]

SECTION 5
2. In page 9, lines 16 to 18, to delete subsection (1) and substitute the following:

“5.—(1) Notwithstanding the repeal by section 4 of the Pharmacy (Ireland) Act 1875, the Pharmaceutical Society of Ireland shall continue in being subject to and as reconstituted by this Act.”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

3. In page 9, subsection (2), line 19, after “as” to insert the following:

“Cumann Cógaiseoirí na hÉireann, or, in the English language,.”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

SECTION 7
4. In page 10, subsection (1)(b), line 34, after “promote” to insert “and ensure”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

*5. In page 11, subsection (2)(a)(iv), line 8, after “education” to insert “and training”.

—Senators Mary Henry, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

*6. In page 11, subsection (2)(b), between lines 29 and 30, to insert the following:

“(iv) to conduct or arrange for the conduct of examinations of persons who are applying or might apply for registration,”.

[No. 21 of 2007] [22 March, 2007]
7. In page 11, subsection (2)(b), after line 45, to insert the following:

“(x) confer honorary fellowships.”

—Senator Mary Henry.

8. In page 11, after line 45, to insert the following subsection:

“(3) Without prejudice to the generality of subsection (2)(a)(ii), the Society’s duty under that provision shall include determining and applying criteria for registration which require compliance with any codes of conduct drawn up for pharmacists and undertakings to comply with such codes.”

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy, Feargal Browne.

9. In page 11, after line 45, to insert the following subsection:

“(3) Without prejudice to the generality of subsection (2)(a)(iii), the Society’s duty under that provision shall include the drawing up of codes of conduct for pharmacists which make detailed provision for conflicts of interest, and, without limitation, for such conflicts as might arise as a result of certain relationships and arrangements between pharmacists and medical practitioners, or persons connected with them (including those relating to the letting of premises), and which require certain declarations and disclosures to be made in that regard.”

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy, Feargal Browne.

SECTION 10

10. In page 12, subsection (2), lines 22 and 23, to delete “by the Minister” and substitute “or elected as set out in subsection (3)”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

*11. In page 12, subsection (3), lines 34 to 37 and in page 13, lines 1 and 2, to delete paragraph (d).

*12. In page 13, subsection (3), between lines 7 and 8, to insert the following:

“(f) 11 (including the persons referred to in paragraphs (a) to (d)#) shall be persons who are not and never have been—

(i) registered as pharmacists or (before the coming into operation of Part 4) as pharmaceutical chemists or dispensing chemists and druggists, or

(ii) registered outside the State or otherwise qualified there as pharmacists.”.

#[This is the appropriate reference if amendment No. 11 is accepted.]

13. In page 13, subsection (3), lines 8 and 9, to delete paragraph (f) and substitute the following:

“(f) 9 shall be members of the Society who are chosen for such appointment in accordance with section 11, and”

—Senator Mary Henry.
*14. In page 13, subsection (3)(f), line 9, after “members” to insert the following:

“in accordance with rules made under section 11(2)(b)”.  

15. In page 13, subsection (3)(f), line 9, after “members” to insert the following:

“in accordance with regulations regarding election of those members prescribed by the Society, or, in the case of the first such election, by the Minister”.
—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

16. In page 13, subsection (3)(g)(i), line 14, to delete “pharmacy faculties” and substitute “Schools of Pharmacy”.
—Senator Mary Henry.

17. In page 13, between lines 29 and 30, to insert the following subsection:

“(6) Not less than 40 per cent of the members of a Body shall be men and not less than 40 per cent shall be women.”.
—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

SECTION 11

18. In page 13, before section 11, to insert the following new section:

“Nomination and Election.

11.—(1) Subject to subsection (2) the Minister shall appoint with effect from the establishment day 9 persons to be members of the Council whom he or she considers to be representative of the persons eligible to be chosen for appointment as members of the Council under section 10(3)(f).

(2) The Council shall make rules, not later than 3 months after the establishment day, for the purpose of the election of persons for appointment as members of the Council under section 10(3)(f).

(3) (a) Elections referred to in subsection (2) shall be held on a ballot and in a manner provided for by the rules.

(b) Rules made under subsection (2) may provide for such incidental, supplementary and consequential provisions as the Council considers necessary or expedient.

(c) Without prejudice to the generality of subsection (2) or paragraph (b), rules may make provision in relation to—

(i) returning officers,

(ii) ballot papers,

(iii) date of election,

(iv) any other matter that, in the opinion of the Council, is required for the purposes of the election of members.
SECTION 11

(4) As soon as practicable, but in any event not more than 3 months after the making of the rules referred to in subsection (2)(a), the Council shall hold elections for the purpose of electing persons for appointment by the Minister as members of the Council pursuant to section 10(3)(f).”.

—Senator Mary Henry.

SECTION 12

19. In page 14, subsection (1), between lines 17 and 18, to insert the following:

“(a) consult with the Irish Pharmaceutical Union, and with any other person or body the Council considers, in its discretion, it would be desirable to consult in advance of drawing up, or giving effect to, a code of conduct,”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy, Feargal Browne.

SECTION 13

20. In page 15, lines 27 to 32, to delete subsection (2) and substitute the following:

“(2) The Council shall publish each register within 12 months of the setting up of the register and thereafter at intervals of not more than 12 months.”.

—Senator Mary Henry.

*21. In page 15, between lines 32 and 33, to insert the following subsection:

“(3) The duties imposed by subsections (1)(e) and (2) do not extend to the home addresses, telephone numbers and e-mail addresses of individuals and to such other similar information about them as the Council considers should, in the interests of the security and privacy of those individuals, not be disclosed.”.

SECTION 14

22. In page 16, subsection (2)(a)(ii), line 26, after “state” to insert “or in the State”.

—Senator Mary Henry.

SECTION 16

*23. In page 18, lines 21 to 25, to delete subsection (5) and substitute the following:

“(5) The third of those requirements is that the person—

(a) holds a diploma, certificate or other evidence of formal qualification as a pharmacist granted by a competent authority of a third country, and the diploma, certificate or other evidence has been recognised by a relevant state for the purpose of being a pharmacist in that state, and

(b) has experience, of at least three years, of practising as a pharmacist in that state certified in accordance with Article 3.3 of the Professional Qualifications Directive.”.
24. In page 18, subsection (5), line 25, after “state” where it secondly occurs to insert the following:

“and certified by that state and the person has 3 years professional experience in that state in accordance with Article 3(3) of the Professional Qualifications Directive”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

SECTION 18
25. In page 21, between lines 16 and 17, to insert the following subsection:

“(2) The Minister shall, prior to making any such regulations, consult with the Irish Pharmaceutical Union and with the Society, and with any other person or body the Minister considers, in his or her discretion, it would be desirable to consult in advance of making any regulations under this section.”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy, Feargal Browne.

SECTION 24
26. In page 23, subsection (1), line 21, to delete “pharmacy faculties” and substitute “Schools of Pharmacy”.

—Senator Mary Henry.

SECTION 25
27. In page 23, before section 25, but in Part 5, to insert the following new section:

25.—Any person who knowingly helps or, by encouragement, advice or consent, or by an authorisation or order, leads any person to contravene any provision of any code of conduct drawn up by the Society under section 7(2)(iii) shall be guilty of an offence.”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

28. In page 23, before section 25, but in Part 5, to insert the following new section:

25.—It shall be an offence for any person knowingly or recklessly to make any declaration or disclosure to the Society which is false, misleading or incomplete.”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

29. In page 23, before section 25, but in Part 5, to insert the following new section:

25.—(1) It shall be an offence for any person carrying on a retail pharmacy business, or any partner, connected relative or connected person, servant or agent of such person, to rent or purchase from a medical practitioner, partner, connected relative, or connected person of such practitioner, or otherwise obtain an interest from such persons in, a premises at which such business is, or is intended to be, carried out—
SECTION 25

(a) at a rent, or for other direct or indirect consideration in money or money’s worth, or both, which is not normal for the area in which the premises are located, and

(b) in circumstances in which the amount of the rent or other consideration, or both, is or are related, directly or indirectly, to the value or volume of business expected to be carried out in the premises (or both) as a consequence of patients of such practitioner purchasing or obtaining medicinal products prescribed by him or her from such pharmacist or pharmacy by reason of its location in the premises concerned.

(2) For the purposes of this section, “connected relative” shall have the meaning assigned to it in paragraph 9 of Schedule 1 to this Act, and “connected person” shall have the meaning assigned to it in section 2(a) of the Ethics in Public Office Acts 1995 and 2001.”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

30. In page 23, before section 25, but in Part 5, to insert the following new section:

25.—(1) It shall be an offence for any person carrying on a retail pharmacy business, or any partner, connected relative or connected person, servant or agent of such person—

(a) directly or indirectly to make, offer or provide to any medical practitioner or any partner, connected relative or connected person of such practitioner, any payment, inducement, consideration in money or money’s worth or financial or other benefit of any kind, in consideration of, or by way of reward for, or in any way relating to—

(i) the value or volume (or both) of medicinal products prescribed by that medical practitioner, or

(ii) the direct or indirect direction, encouragement or referral by that medical practitioner of his patients to purchase or obtain medicinal products prescribed by him or her from such pharmacist or pharmacy, or both,

(b) to enter into, or be party to, any agreement, arrangement or understanding, under which, directly or indirectly, any payment, inducement, consideration in money or money’s worth or financial or other benefit of any kind, is made, offered or provided to any medical practitioner or any partner, connected relative or connected person of such practitioner, in consideration of, or by way of reward for, or in any way relating to—

(i) the value or volume (or both) of medicinal products prescribed by that medical practitioner, or

(ii) the direct or indirect direction, encouragement or referral by that medical practitioner of his patients to purchase or obtain medicinal products prescribed by him or her from such pharmacist or pharmacy, or both,
(c) directly or indirectly to make, offer or provide to any medical practitioner or any partner, connected relative or connected person of such practitioner, any payment, inducement, consideration in money or money’s worth or financial or other benefit of any kind, or to enter into, or be party to, any agreement, arrangement or understanding, under which, directly or indirectly, any such payment, inducement, consideration in money or money’s worth or financial or other benefit of any kind, is to be made, offered or provided to any medical practitioner, partner, connected relative, or connected person of such practitioner, the direct, or indirect consequence or effect of which would, or could, be to

(i) increase the value or volume (or both) of medicinal products prescribed by that medical practitioner, or

(ii) cause the direction, encouragement or referral by that medical practitioner of his patients to purchase or obtain medicinal products prescribed by him or her from such pharmacist or pharmacy, or both.

(2) For the purposes of this section, “connected relative” shall have the meaning assigned to it in paragraph 9 of Schedule 1 to this Act, and “connected person” shall have the meaning assigned to it in section 2(a) of the Ethics in Public Office Acts 1995 and 2001.

(3) For the purposes of this section, references to any payment, inducement, consideration in money or money’s worth or financial or other benefit of any kind, shall include a reference to rent and other consideration in money or money’s worth relating to the making available of premises to a person carrying on a retail pharmacy business, and references in this section to any agreement, arrangement or understanding shall include a reference to any agreement, arrangement or understanding (including a lease of premises) by means of which such premises is made available.”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

31. In page 23, before section 25, but in Part 5, to insert the following new section:

25.—(1) It shall be an offence for any person carrying on a retail pharmacy business, or any partner, connected relative or connected person, servant or agent of such person, to suffer the location of the premises at which such business is, or intended to be, carried on, to be a premises in which any medical practitioner, or partner of such practitioner, carries on a medical practice, and which premises is under such amount in square metres as may be prescribed, in size and does not contain any units in which any business other than a medical, dental, veterinary, or other similar healthcare-related practice is carried on.

(2) For the purposes of this section, “connected relative” shall have the meaning assigned to it in paragraph 9 of Schedule 1 to this Act, and “connected person” shall have the meaning assigned to it in section 2(a) of the Ethics in Public Office Acts 1995 and 2001.”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.
SECTION 26

32. In page 24, subsection (1)(a), line 33, after “person” to insert “being a registered pharmacist”.
   —Senators Mary Henry, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

33. In page 24, subsection (1)(a), line 34, after “partnership” to insert “or registered partnership”.
   —Senator Mary Henry.

34. In page 24, subsection (1)(a), line 34, after “partnership” to insert “of registered pharmacists”.
   —Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

35. In page 24, subsection (2), line 41, after “than” to insert the following: “in the course of operating a hospital pharmacy department or”.
   —Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

36. In page 24, after line 41, to insert the following subsection:

“(3) Any person who knowingly helps or, by encouragement, advice or consent, or by an authorisation or order, leads any person to contravene any provision of any code of conduct drawn up by the Society under section 7(2)(a)(iii) shall be guilty of an offence.”.
   —Senator Feargal Browne.

37. In page 24, after line 41, to insert the following subsection:

“(3) It shall be an offence for any person knowingly or recklessly to make any declaration or disclosure to the Society which is false, misleading or incomplete.”.
   —Senator Feargal Browne.

38. In page 24, after line 41, to insert the following subsections:

“(3) It shall be an offence for any person carrying on a retail pharmacy business, or any partner, connected relative or connected person, servant or agent of such person, to rent or purchase from a medical practitioner, partner, connected relative, or connected person of such practitioner, or otherwise obtain an interest from such persons in, a premises at which such business is, or is intended to be, carried out—

(a) at a rent, or for other direct or indirect consideration in money or money’s worth, or both, which is or are not normal for the area in which the premises are located, and

(b) in circumstances in which the amount of the rent or other consideration, or both, is or are related, directly or indirectly, to the value or volume of business expected to be carried out in the premises (or both) as a consequence of patients of such practitioner purchasing or obtaining medicinal products prescribed by him or her from such pharmacist or pharmacy by reason of its location in the premises concerned.
SECTION 26

(4) For the purposes of this section, “connected relative” shall have the meaning assigned to it in paragraph 9 of Schedule 1 to this Act, and “connected person” shall have the meaning assigned to it in section 2(a) of the Ethics in Public Office Acts 1995 and 2001.”.

—Senator Feargal Browne.

SECTION 27

*39. In page 25, between lines 1 and 2, to insert the following:

“(a) that the person referred to in section 26(1)(a) is a registered pharmacist or the partnership there referred to consists only of registered pharmacists,”.

SECTION 28

*40. In page 25, paragraph (a)(i), line 30, after “body” to insert “or office holder in the other body”.

41. In page 25, paragraph (a)(ii), line 32, after “pharmacist” to insert “and a director or company secretary”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

*42. In page 25, paragraph (a)(ii), line 33, to delete “body,” and substitute “body or other body,.”.

SECTION 31

*43. In page 27, subsection (4), line 14, after “a” to insert “pharmacist or a”.

SECTION 32

44. In page 27, before section 32, to insert the following new section:

32.—(1) It shall be an offence for any person carrying on a retail pharmacy business, or any partner, connected relative or connected person, servant or agent of such person, to—

(a) directly or indirectly to make, offer or provide to any medical practitioner or any partner, connected relative or connected person of such practitioner, any payment, inducement, consideration in money or money’s worth or financial or other benefit of any kind, in consideration of, or by way of reward for, or in any way relating to—

(i) the value or volume (or both) of medicinal products prescribed by that medical practitioner,

(ii) the direct or indirect direction, encouragement or referral by that medical practitioner of his patients to purchase or obtain medicinal products prescribed by him or her from such pharmacist or pharmacy, or

(iii) both,
(b) to enter into, or be party to, any agreement, arrangement or understanding, under which, directly or indirectly, any payment, inducement, consideration in money or money’s worth or financial or other benefit of any kind, is made, offered or provided to any medical practitioner or any partner, connected relative or connected person of such practitioner, in consideration of, or by way of reward for, or in any way relating to—

(i) the value or volume (or both) of medicinal products prescribed by that medical practitioner,

(ii) the direct or indirect direction, encouragement or referral by that medical practitioner of his patients to purchase or obtain medicinal products prescribed by him or her from such pharmacist or pharmacy,

(iii) both,

c) directly or indirectly to make, offer or provide to any medical practitioner or any partner, connected relative or connected person of such practitioner, any payment, inducement, consideration in money or money’s worth or financial or other benefit of any kind, or to enter into, or be party to, any agreement, arrangement or understanding, under which, directly or indirectly, any such payment, inducement, consideration in money or money’s worth or financial or other benefit of any kind, is to be made, offered or provided to any medical practitioner, partner, connected relative, or connected person of such practitioner, the direct, or indirect consequence or effect of which would, or could, be to—

(i) increase the value or volume (or both) of medicinal products prescribed by that medical practitioner, or

(ii) cause the direction, encouragement or referral by that medical practitioner of his patients to purchase or obtain medicinal products prescribed by him or her from such pharmacist or pharmacy, or

(iii) both.

(2) For the purposes of this section—

(a) “connected relative” shall have the meaning assigned to it in paragraph 9 of Schedule 1,

“connected person” shall have the meaning assigned to it in section 2(a) of the Ethics in Public Office Acts 1995 and 2001,

(b) references to any payment, inducement, consideration in money or money’s worth or financial or other benefit of any kind, shall include a reference to rent and other consideration in money or money’s worth relating to the making available of premises to a person carrying on a retail pharmacy business, and references in this section to any agreement, arrangement or understanding shall include a reference to any agreement, arrangement or understanding (including a lease of premises) by means of which such premises is made available.”.

—Senator Fergal Browne.
45. In page 27, before section 32, to insert the following new section:

32.—(1) It shall be an offence for any person carrying on a retail pharmacy business, or any partner, connected relative or connected person, servant or agent of such person, to suffer the location of the premises at which such business is, or intended to be, carried on, to be a premises in which any medical practitioner, or partner of such practitioner, carries on a medical practice, and which premises is under a given area in size (such size to be set by the Minister by regulation) and does not contain any units in which any business other than a medical, dental, veterinary, or other similar healthcare-related practice is carried on.

(2) For the purposes of this section—

“connected relative” shall have the meaning assigned to it in paragraph 9 of Schedule 1, and

“connected person” shall have the meaning assigned to it in section 2(a) of the Ethics in Public Office Acts 1995 and 2001.”.

—Senator Feargal Browne.

SECTION 34

46. In page 29, subsection (8), line 33, after “committee” to insert the following:

“and a registered medical practitioner appointed under subsection (9)”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

SECTION 35

47. In page 29, subsection (1), line 41, after “pharmacist” to insert “or trainee pharmacist”.

—Senator Mary Henry.

48. In page 30, subsection (1)(c), line 2, after “pharmacist’s” to insert “or trainee pharmacist’s”.

—Senator Mary Henry.

49. In page 30, subsection (2), lines 15 and 16, to delete “or, if not, in a form acceptable to the Council”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

50. In page 30, subsection (4), line 19, after “pharmacist” to insert “or trainee pharmacist”.

—Senator Mary Henry.

51. In page 30, subsection (4), line 21, after “pharmacist” to insert “or trainee pharmacist”.

—Senator Mary Henry.

52. In page 30, subsection (5), line 23, after “pharmacist” to insert “or trainee pharmacist”.

—Senator Mary Henry.
SECTION 43

53. In page 34, subsection (1), line 32, after “the” where it firstly occurs to insert “High”.
   —Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

*54. In page 34, subsection (1)(b), line 35, to delete “and”.

*55. In page 34, subsection (1)(c), line 37, to delete “property.” and substitute the following:

    “property, and

    (d) awarding and authorising the recovery of costs.”.

*56. In page 35, between lines 10 and 11, to insert the following subsection:

    “(6) An award of costs under subsection (1)(d) may, within 21 days of its having been made, be appealed to the District Court for the time being assigned to the district where the committee awarding the costs sat when doing so.”.

*57. In page 35, between lines 35 and 36, to insert the following subsection:

    “(9) In this section “Court” means the High Court.”.

SECTION 45

*58. In page 36, between lines 4 and 5, to insert the following subsection:

    “(2) An order under subsection (1) suspending the registration of a retail pharmacy business may also provide for the closure of the premises in which the business has been carried on.”.

*59. In page 36, subsection (3), line 13, after “Part” to insert the following:

    “and, in the case of an order containing a closure provision under subsection (2), that the premises there referred to should be closed pending that procedure”.

60. In page 36, between lines 17 and 18, to insert the following subsection:

    “(5) The High Court, if it sees fit, may order the closure of the registered retail pharmacy.”.
   —Senator Mary Henry.

SECTION 63

*61. In page 41, before section 63, but in Part 6, to insert the following new section:

   “For the purposes of section 35 and so much of this Part as relates to that section, it is professional misconduct by a registered pharmacist if—

   (a) he or she, or

   (b) to the knowledge of the registered pharmacist, his or her partner or employee,

    has a beneficial interest in a medical practice.”
(2) For the purposes of section 36 and so much of this Part as relates to that section, it is misconduct of the kind referred to in that section by a pharmacy owner if—

(a) the pharmacy owner, or

(b) to the knowledge of the pharmacy owner, a partner or employee of the pharmacy owner,

has a beneficial interest in a medical practice.

(3) For the purposes of section 46 of the Medical Practitioners Act 1978 and so much of Part V of that Act as relates to that section or any enactments re-enacting those provisions, it is professional misconduct by a registered medical practitioner if—

(a) he or she, or

(b) to the knowledge of the registered medical practitioner, his or her partner or employee,

has a beneficial interest in a registered retail pharmacy business.

(4) For the purposes of this section, an interest consisting of the ownership of a medical practice or registered retail pharmacy business (or part thereof)—

(a) is not to be taken to be a beneficial interest in the practice or business if the benefit deriving from the interest consists of the benefit of ownership alone, but

(b) is to be taken to be a beneficial interest in the practice or business if the benefit so deriving consists of or includes a financial benefit accruing to the registered pharmacist or registered medical practitioner in the exercise of his or her profession as such or, as the case may be, to the owner of the registered retail pharmacy business in his, her or its capacity as such.

(5) In this section—

(a) “beneficial interest” in a medical practice or registered retail pharmacy business includes—

(i) where the practice or business or a part of it is owned by—

(I) a company, the interest of a director of or shareholder in the company,

(II) a corporate body which is not a company, the interest of a member of the body,

(ii) where the practice or business is carried on in leased premises, the interest of the landlord in the rent or other consideration for the tenancy where that rent or other consideration—

(I) does not represent the rental value of the tenancy on the open market and the difference may reasonably be attributed to the existence of an economic relationship between the parties other than that of landlord and tenant, or
(II) is ascertained by reference to the receipts or profits of a registered retail pharmacy business or a medical practice,

and a person shall be regarded, for the purposes of this section, as having a beneficial interest in such a practice or business if his or her spouse or dependent child has such an interest in it;

“dependent child” means, in relation to a person, a child of that person who is under the age of 18 years or, if he or she has attained that age, is a child to whom paragraph (i) or (ii) of the definition of “dependent child of the family” in section 3(a) of the Family Law (Maintenance of Spouses and Children) Act 1976 applies;

“employee” means a person who works under a contract of employment (or has entered such a contract in order to do so) and includes a fixed-term employee and a temporary employee;

“partner” shall be construed in accordance with the Partnership Act 1890;

“registered medical practitioner” has the meaning given by the Medical Practitioners Act 1978 or any enactment re-enacting that definition;

“shareholder” does not include a shareholder in a company whose holding does not exceed one half of one per cent of the total value of shares issued by the company;

“spouse” does not include a spouse who is a registered pharmacist, a registered pharmaceutical assistant or a registered medical practitioner; and

(b) references to leased premises, the landlord, the tenancy, the rental value and the tenant include, in a case where premises are made available for use or occupation on licence or similarly, references respectively to the premises so made available, the person who makes them available, the use or occupation, the value of that use or occupation and the person who uses or occupies them.”.

*62. In page 41, before section 63, but in Part 6, to insert the following new section:

64.—(1) A registered retail pharmacy business and a medical practice shall not be carried on—

(a) in the same premises as each other, or

(b) in premises which, although separate—

(i) are such that public access to the one is available only by way of the other, or

(ii) share a common public entrance with each other,

if there is an arrangement of the kind described in subsection (2).

(2) An arrangement is of the kind referred to in subsection (1) if it—
(a) is between the owner of the registered retail pharmacy business referred to in that subsection or the registered pharmacist in whole-time charge of that business and a registered medical practitioner practising in the medical practice referred to in that subsection, and

(b) provides for, acknowledges or regulates a financial benefit to any of them arising from or facilitated by the co-location or juxtaposition described in that subsection.

(3) A registered pharmacist or a pharmacy owner shall not recommend any medical practice or registered medical practitioner to a member of the public otherwise than in the exercise of his or her professional judgment as a pharmacist, or, as the case may be, in the proper carrying on of the business.

(4) In subsection (3), “proper” means in a way not intended to result in a financial benefit to be derived from the medical practice or registered medical practitioner referred to in that subsection.

(5) A registered medical practitioner shall not recommend any pharmacist or retail pharmacy business to a member of the public otherwise than in the exercise of his or her professional judgment as a registered medical practitioner.

(6) A registered pharmacist or pharmacy owner who is aware of a contravention of this section shall report it to the Society.

(7) A registered medical practitioner who is aware of a contravention of this section shall report it to the Medical Council.

(8) A contravention of this section—

(a) by a registered pharmacist shall for the purposes of section 35 and so much of this Part as relates to that section, constitute professional misconduct by the registered pharmacist,

(b) by the owner of a registered retail pharmacy business shall for the purposes of section 36 and so much of this Part as relates to that section, constitute misconduct of the kind referred to in that provision by the pharmacy owner,

(c) by a registered medical practitioner shall, for the purposes of section 46 of the Medical Practitioners Act 1978 and so much of Part V of that Act as relates to that section, or any enactment re-enacting those provisions, constitute professional misconduct by the registered medical practitioner.

(9) Subsections (1) to (4) and (10) and such much of the remainder of this section as relates to those subsections shall apply in relation to a registered retail pharmacy business or medical practice which was being lawfully carried on immediately before the passing of this Act only with effect on and from such later date as is specified by order made by the Minister.

(10) In this section “registered medical practitioner” has the same meaning as in section 63#.”.

#[This is the appropriate reference if amendment No. 61 is accepted.]
63. In page 41, between lines 35 and 36, to insert the following:

“‘premises’ includes any aircraft, hovercraft, ship, stall, or vehicle;”.

—Senator Mary Henry.

64. In page 41, between lines 35 and 36, to insert the following:

“‘premises’ includes vehicles, craft, containers, boats, hovercraft or aircraft;”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

65. In page 41, paragraph (a), line 37, before “a” to insert “computer data,”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

66. In page 42, paragraph (a), line 15, after “medicinal” to insert “or veterinary medicinal”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

*67. In page 42, line 15, to delete “and”.

68. In page 42, paragraph (b), line 18, before “product” to insert “or veterinary medicinal”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

*69. In page 42, line 18, to delete “product;” and substitute “product, and”.

*70. In page 42, between lines 18 and 19, to insert the following:

“(c) any veterinary medicinal product;”.

—Senator Mary Henry.

SECTION 64

71. In page 44, subsection (3)(n), line 15, after “facilities” to insert the following:

“or courier facilities or other means of transportation”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

72. In page 44, subsection (3)(n), line 20, to delete “mail.” and substitute the following:

“mail, courier or other means of delivery or transportation.”.

—Senator Mary Henry.

*73. In page 44, subsection (3)(n), line 20, after “mail” to insert “or other means of delivery”.

*74. In page 44, subsection (4), lines 26 to 28, to delete paragraph (c) and substitute the following:

“(c) persons with expertise relating to the relevant thing,
as he or she considers appropriate in the circumstances of the case.”.
SECTION 64

*75. In page 44, subsection (6)(c), to delete lines 43 to 49 and in page 45, to delete lines 1 and 2 and substitute the following:

“(3)(a)(ii) are being stored or kept in any dwelling,

may issue a warrant authorising a named authorised officer accompanied by such other authorised officers, members of the Garda Síochána, or persons with expertise relating to any relevant thing, as may be necessary, at any time or times within one month of the date of issue of the warrant, to enter the dwelling and perform any of the functions of an authorised officer under subsection (3)(b) to (n).”.

SECTION 65

76. In page 45, subsection (1)(b), line 41, after “separate” to insert “suitable”.

—Senator Mary Henry.

SECTION 68

*77. In page 47, subsection (2), lines 27 to 29, to delete all words from and including “the” where it thirdly occurs in line 27 down to and including “Prosecutions” in line 29 and substitute the following:

“any public body or authority exercising functions which are relevant to the matters considered by the Council when directing the action referred to in that provision”.

78. In page 47, subsection (2), line 29, after “Commissioners” to insert the following:

“an officer of Customs and Excise, the Health Services Executive, the Irish Medicines Board, the Director of Corporate Enforcement, any other person or body acting as a regulator of a health profession (for example the Medical Council, Dental Council, Veterinary Council, An Bord Altranais) or as a standards body (for example the Health Information and Quality Authority)”.

—Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

79. In page 47, subsection (2), line 29, after “Commissioners,” to insert the following:

“officers of Customs and Excise, the Health Service Executive, the Irish Medicines’ Board, the Director of Corporate Enforcement, any person or body acting as a regulator of the health professions such as the Medical Council, the Dental Council, the Veterinary Council, and Bord Altranais or standards body such as the Health Information and Quality Authority,”.

—Senator Mary Henry.

*80. In page 47, subsection (2), lines 34 to 37, to delete all words from and including “as” in line 34 down to and including “be” in line 37 and substitute “as that body or authority”.

SECTION 69

81. In page 48, subsection (3), line 16, after “director,” to insert the following:

“shadow director as defined in section 27 of the Companies Act 1990.”.

—Senator Mary Henry.
82. In page 48, subsection (3), line 18, after “capacity” to insert the following:

“including a shadow director within the meaning of section 27 of the Companies (Amendment) Act 1990”.

— Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

*83. In page 48, between lines 21 and 22, to insert the following subsection:

“(4) In subsection (3), “director” includes a shadow director within the meaning given by section 27 of the Companies Act 1990.”.

SECTION 70

*84. In page 48, subsection (1), line 24, to delete “Apothecaries” and substitute “Apothecaries’ Hall”.

85. In page 48, line 35, to delete subsection (2).

— Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

SECTION 72

*86. In page 50, lines 14 to 21, to delete subsection (2) and substitute the following:

“(2) Any reference (however expressed) in a prior enactment to a person who is keeping open shop for the dispensing or compounding of medical prescriptions under the Pharmacy Acts 1875 to 1977—

(a) where that person is, in relation to a pharmacist, a representative within the meaning given by section 25(2), shall be construed as a reference to such a representative, and

(b) in any other case, shall be construed as a reference to a registered retail pharmacy business.”.

SCHEDULE 1

87. In page 51, paragraph 2, between lines 18 and 19, to insert the following:

“(2) A disqualification pursuant to an order of a court referred to in subparagraph (1)(a), (c), (d), (e) or (f) shall not take effect until the ordinary time for appealing against any such order has expired, or if an appeal is lodged within that time, until any such appeal, or a further appeal therefrom is determined.”.

— Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

*88. In page 51, paragraph 2(3), line 29, to delete “paragraph (21)” and substitute “paragraph 21(2)”.

*89. In page 51, paragraph 4(1), line 36, after “members” to insert “who are registered pharmacists”.

90. In page 51, paragraph 4(1), line 36, after “members” to insert “who are members of the society”.

— Senator Mary Henry.
91. In page 51, paragraph 4(1), line 37, after “Vice-President” where it firstly occurs, to insert “who shall be registered pharmacists”.
   — Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

92. In page 54, paragraph 9, after line 44, to insert the following:

   “(8) A disclosure under this paragraph or paragraph 10 shall be recorded in a register together with particulars of any interest of members of the Authority or persons to whom paragraph 10 applies, and the register shall be available to public inspection during office hours.”.
   — Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

93. In page 56, paragraph 11, between lines 4 and 5, to insert the following:

   “(4) Reference to this paragraph is inserted in Part I of the Third Schedule to the Freedom of Information Act 1997.”.
   — Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

94. In page 56, paragraph 12(2), line 9, after “surplus” to insert the following:

   “including any surplus following the disposal of its assets”.
   — Senators Mary Henry, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

95. In page 58, paragraph 21(2), line 42, after “himself” to insert “or herself”.

96. In page 58, after line 42, to insert the following:

   “Accountability to Houses of the Oireachtas

   22. When required by a committee of either or both Houses of the Oireachtas, the President of the Society shall appear before the committee to account for the general administration of the Society.”.
   — Senators Brendan Ryan, Kathleen O’Meara, Derek McDowell, Joanna Tuffy, Michael McCarthy.

SCHEDULE 4

97. In page 62, column (1), line 3, to delete “Year” and substitute “Session and chapter or year”.

98. In page 62, column (1), line 5, to delete “1791” and substitute “31 Geo. 3.,”.

99. In page 62, column (2), line 5, to delete “Apothecaries” and substitute “Apothecaries’ Hall”.

100. In page 62, column (1), line 6, to delete “1875” and substitute “38 & 39 Vic.,”.

101. In page 62, column (1), line 8, to delete “1890” and substitute “53 & 54 Vic.,”.
[ SCHEDULE 4 ]

*102. In page 62, between lines 9 and 10, to insert the following:

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8 Edw. 7., c. 55  Poisons and Pharmacy Act 1908  The whole Act
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—Senator Mary Henry.

TITLE

*103. In page 7, line 18, after “PRACTISE” to insert the following:

“AND TO PREVENT PHARMACISTS, PHARMACY OWNERS AND MEDICAL PRACTITIONERS FROM ENTERING INTO CERTAIN INAPPROPRIATE RELATIONSHIPS”.

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