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GENERAL NOTICE

NOTICE 979 OF 2003

THE TRADITIONAL HEALTH PRACTITIONERS BILL, 2003

To provide for the establishment of the Interim Traditional Health Practitioners Council of the Republic of South Africa; to provide for a regulatory framework to ensure the efficacy, safety and quality of traditional health care services; to provide for control over the registration, training and practice of Traditional Health Practitioners and to provide for matters incidental thereto.

1. Definitions

In this Act, unless the context otherwise indicates –

“**council**” means the interim council established in terms of section 4;

“**Department of Health**” means the National Department of Health;

“**health establishment**” means the whole or part of a public or private institution, facility, agency building or place, whether organised for profit or not, that is operated or designed to provide inpatient or outpatient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health services;

“**fees**” means fees sounding in money or payment in kind;

“**master**” means a person registered in terms of any of the prescribed categories of traditional health practice who has been accredited by the council to teach traditional health practice or any aspect thereof;

“**member**” means a member of the council or a committee of the council as the case may be;

“**Minister**” means the Minister for the National Department of Health;

“**prescribed**” means prescribed by way of regulation;

“**register**” means a register for the traditional health practitioners established in terms of section 19 of this Act;

“**registered**” means registered in a register referred to in this Act;

“**registrar**” means the registrar of the Interim Traditional Health Practitioners Council of South Africa as appointed in terms of this Act;

“**Republic**” means the Republic of South Africa;

“**rule**” means any rule made under this Act;

“student” means a person learning or studying to be a traditional health practitioner;

“this Act” includes the regulations, rules and any proclamation or order issued or made hereunder;

“traditional birth attendant” means a person who attends at and assists with the birth of a child or who assists and advises pregnant women or women who have just given birth concerning prenatal, perinatal and postnatal matters;

“traditional health practice” means the performance of a function, activity, process or service that includes the utilization of a traditional medicine or a traditional practice and which has as its object:

- (a) the maintenance or restoration of physical or mental health or function; or
- (b) the diagnosis, treatment or prevention of a physical or mental illness; or
- (c) the rehabilitation of a person so that he or she may resume normal functioning within the family or community;
- (d) the physical or mental preparation of an individual for puberty, adulthood, pregnancy, childbirth and death.

but excludes the professional activities of a person practicing any of the professions contemplated in the Pharmacy Act, 1974 (Act 53 of 1974), the Health Professions Act, 1974 (Act 56 of 1974), the Nursing Act, 1974 (Act 50 of 1974), the Allied Health Professions Act, 1982 (Act 63 of 1982) or the Dental Technicians Act, 1979 (Act 19 of 1979);

“traditional health practitioner” means a person registered or required to be registered in terms of this Act and includes a traditional birth attendant and a traditional surgeon;

“traditional medicine” means an object or substance used in traditional health practice for the purpose of:

- (a) the diagnosis, treatment or prevention of a physical or mental illness; or
- (b) for any curative or therapeutic purpose, including the maintenance or restoration of physical or mental health or wellbeing

in human beings, but does not include a substance used for the satisfaction or relief or a habit or craving for the substance used.

“traditional surgeon” means a person who performs circumcision as part of an African cultural initiation ceremony;

“unprofessional conduct” means any act or omission which, when regard is had to the traditional health practice of any person registered under this Act, is improper or disgraceful or dishonourable or unworthy of the occupation;

2. Purpose of the Act

The purpose of this Act is –

- (a) To establish the Interim Traditional Health Practitioners Council of South Africa;
- (b) To make provision for control of the registration, training and practices of traditional health practitioners in the Republic of South Africa;
- (c) To serve and protect the interests of members of the public who use the services of traditional health practitioners.

3. Application of the Act

(1) The provisions of this Act shall apply to -

- (a) traditional health practice in the Republic of South Africa; and
- (b) to persons engaged in or learning traditional health practice in South Africa; and
- (c) to matters incidental to traditional health practice in South Africa.

CHAPTER II**TRADITIONAL HEALTH PRACTITIONERS COUNCIL OF SOUTH AFRICA****4. Establishment of the Interim Traditional Health Practitioners Council.**

- (1) There is hereby established a juristic person to be known as the Interim Traditional Health Practitioners Council of South Africa.
- (2) The registrar shall convene the first meeting of the council within three months of the commencement of this Act.
- (3) The term of office for the Interim Council shall be for a period of three years provided that the Minister may, in order to facilitate the implementation or development of amendments to this Act, extend the term of office of the Council for a further period of not more than 24 months.

5 The objects and functions of the Council shall be to –

- (a) assist in the promotion of the health of the population of the Republic of South Africa;
- (b) ensure quality of health care in traditional health practice;

- (c) protect and serve the interests of members of the public who use or are affected by the services of traditional health practitioners;
- (d) ensure the maintenance and observation of ethical and professional standards by traditional health practitioners;
- (e) control and exercise authority in respect of all matters affecting the training of persons in, and the manner of the conduct of, traditional health practice;
- (f) control and regulate traditional health practice;
- (g) promote and develop traditional health practice by encouraging research, education and training in traditional health practice;
- (h) promote liaison in the field of training in traditional health practice in the Republic of South Africa and to promote the standards of such training in the Republic;
- (i) maintain and enhance the dignity of the occupation of traditional health practice and the integrity of traditional health practitioners;
- (j) promote traditional health practice which complies with universally accepted health care norms and values with a view to improving the quality of life of patients and the general public;
- (k) register persons who engage in traditional health practice in accordance with the prescribed requirements for registration;
- (l) conduct enquiries and investigations into complaints and allegations concerning the conduct of traditional health practitioners;
- (m) guide the occupation of traditional health practice;
- (n) consult and liaise with relevant authorities in matters affecting traditional health practitioners and matters involving traditional health practice;
- (o) determine policy, and make decisions in terms thereof, with regard to traditional health practitioners and traditional health practice in matters of education, fees, finance, registration, professional conduct, ethics, disciplinary procedure, scope of traditional health practice, interprofessional matters and maintenance of professional competence;
- (p) promote and regulate, in the interests of the public, liaison between traditional health practitioners and other health professionals registered in terms of any law;
- (q) give effect to health policies set by the Minister concerning traditional health practice;
- (r) advise the Minister on any matter falling within the scope of this Act including the health needs of the people of South Africa, the practice of traditional health practitioners, and on matters of democracy, transparency,

equity, accessibility and community involvement affecting the occupation of traditional health practice; and

- (s) communicate to the Minister information of public importance acquired by the council in the course of the performance of its functions under this Act.

6 General powers of the Council

- (1) The council may –
 - (a) acquire, hire or dispose of property, borrow money on the security of the assets of the council and accept and administer any trust or donations;
 - (b) make any rules on all matters which the council deems necessary or expedient in order that the objects of this Act may be achieved;
 - (c) consider any matter affecting the registration of traditional health practitioners and make representations or take such action in connection therewith as the council deems advisable;
 - (d) pursuant to the provisions of the Act, register a person as a traditional health practitioner;
 - (e) establish registers for various categories of traditional health practitioners;
 - (f) delegate to any committee or any person such of its powers as it may from time to time determine, but shall not be divested of any power so delegated;
 - (g) in such circumstances as may be prescribed, or where otherwise authorised by this Act, remove any name from the register or, upon payment of the prescribed fee, restore a name to the register;
 - (h) require any registered traditional health practitioner to pay to the council any prescribed fee;
 - (i) in such circumstances as may be prescribed, suspend or cancel any registration entitling a person to carry on the occupation of a traditional health practitioner;
 - (j) approve, on such conditions as it may deem fit, the education and training of traditional health practitioners in consultation with relevant departments and the quality assessment bodies;
 - (k) cause copies of the registers or of supplementary lists showing amendments of the registers, to be printed and published;
 - (l) require any person registered as a traditional health practitioner to submit to the council such information as the council may deem necessary;

- (m) perform such other functions as may be prescribed and generally do all such things as the council deems necessary or expedient to achieve its objects and functions in terms of this Act;

7 Constitution of the Council

- (1) The council shall consist of a maximum of 25 members, appointed by the Minister in the prescribed manner, of whom-
 - (a) one shall be a registered traditional health practitioner and shall be appointed as the chairperson of the council by the Minister;
 - (b) one shall be the vice-chairperson of the council and shall be elected by the members of the council from amongst their number;
 - (c) nine shall be traditional health practitioners, one from each province, each of whom shall have been in practice for not less than a period of five years;
 - (d) one shall be a person in the employment of the Department of Health;
 - (e) one shall be a person appointed on account of his or her knowledge of the law;
 - (f) one shall be a medical practitioner who is a member of the Health Professions Council of South Africa;
 - (g) one shall be a pharmacist who is a member of the South African Pharmacy Council;
 - (h) three shall be community representatives; and
 - (i) one shall be a representative from each category of traditional health practice specified in this Act.

8 Vacation of Office and Filling of Vacancies

- (1) A member of the council shall vacate his or her office if –
 - (a) he or she ceases to be a South African citizen;
 - (b) he or she has been diagnosed as having a mental illness or becomes a patient as defined in section 1 of the Mental Health Act, 1973 (Act No.18 of 1973) or its successor;
 - (c) he or she has been convicted of an offence, and sentenced to imprisonment without the option of a fine, whether or not such sentence has been suspended;
 - (d) he or she becomes disqualified in terms of any law from practising as a traditional health practitioner;

- (e) ceases to hold any qualification necessary for his or her designation or appointment;
 - (f) tenders his or her resignation in writing to the Minister;
 - (g) if he she has been absent from two consecutive meetings of the council without the leave of the council;
 - (h) his or her estate is sequestrated or he or she has entered into a composition with the creditors of his or her estate;
 - (i) he or she becomes impaired to the extent that he or she is unable to carry out his or her duties as a member of the council.
 - (j) the Minister, in the public interest or for just cause terminates his or her membership;
 - (k) the period for which the member was appointed has expired and his or her appointment is not renewed by the Minister.
- (2) Every vacancy on the council arising from a circumstance referred to in subsection (1) and every vacancy caused by the death of a member, shall be filled by appointment by the Minister and every member so appointed shall hold office for the unexpired portion of the period for which the vacating member was designated or appointed.

9 Disqualification for appointment as a member

- (1) No person shall be appointed as a member and no person shall be qualified to hold office as a member who –
- (a) is not a South African citizen;
 - (b) has been convicted of an offence in respect of which he or she was sentenced to imprisonment without the option of a fine;
 - (c) has been found guilty of unprofessional conduct in terms of this Act;
 - (d) who is a patient or who has been diagnosed as having a mental illness as defined in the Mental Health Act, 1973 (Act No 18 of 1973) or its successor;
 - (e) is an unrehabilitated insolvent or who has entered into a composition with the creditors of his or her estate;
 - (f) has been disqualified in terms of any law, from practising as a traditional health practitioner.
 - (g) is at the time of appointment or was during the preceding twelve months:

- (i) a member of a National Cabinet, any provincial legislative body or any municipal council or;
- (ii) an office bearer or employee of any party, organisation or body of a political nature.

10 Chairperson and vice chairperson

- (1) The chairperson and vice-chairperson shall hold office for the duration of the term of office for which he or she has been appointed by the Minister to the council unless the chairperson or vice-chairperson resigns or ceases to be a member prior to the expiry of his or her term of office as a member.
- (2) In the absence of the chairperson of the council or in the event that the chairperson is for any reason unable to act as chairperson, the vice-chairperson shall have the authority to perform all of the functions and exercise all of the powers of the chairperson.
- (3) If both the chairperson and the vice-chairperson are absent from any meeting, the members present shall elect one of their number to preside at that meeting and, until the chairperson or vice-chairperson resumes duty, perform all of the functions and exercise all of the powers of the chairperson.
- (4) If both the chairperson and the vice-chairperson have been given leave of absence, the members of the council shall elect one of their number to act as chairperson until the chairperson or the vice-chairperson resumes duty or vacates office.
- (5) If the office of the chairperson becomes vacant, the Minister shall appoint as chairperson, at his or her discretion, a person from among the remaining members of the council, or any other person, in terms of section 7(1)(a) and the person so appointed shall hold office for the unexpired portion of the period for which his or her predecessor was appointed.
- (6) If the office of the vice-chairperson becomes vacant, the members of the council shall, at the first meeting after such vacancy occurs or as soon thereafter as may be convenient, elect from among themselves a new vice-chairperson and the member so elected shall hold office for the unexpired portion of the period for which his or her predecessor was elected.
- (7) A chairperson or vice-chairperson may vacate office as such without such vacation by itself terminating his or her membership of the council provided that should a chairperson vacate office without terminating his or her membership of the council, the Minister shall appoint a new chairperson from amongst the members of the council in terms of section 7(1)(a).

11 Meetings of the Council

- (a) The registrar shall in consultation with the chairperson convene the meetings of the council on such a time and date determine by him or her to dispatch its business.

- (b) The council shall meet not less than twice annually for the purpose of conducting its business provided that the council may in addition hold such further meetings as it may from time to time determine.
- (c) A special meeting of the council -
 - (a) may be convened by the chairperson at any time;
 - (b) shall be convened by the chairperson at such place and on such date as he may determine within thirty days of the receipt by him or her of a written request by the Minister or of a written request signed by at least six of the members: provided that such written request shall state clearly the purpose for which the meeting is to be convened.

12 Quorum and procedure at the meeting

- (1) Twelve members of the council shall constitute a quorum for the purposes of any meeting of the council.
- (2) Subject to the provisions of subsection (6), at all meetings of the Council each member present shall have one vote on a question before the Council.
- (3) All matters, acts or things authorised or required to be done by the council shall be decided by a majority vote at a meeting of the council at which a quorum is present.
- (4) Notwithstanding anything to the contrary in this Act, the majority of members of the council or any of its committees, shall be one half of the total number of the members present plus one.
- (5) Only members of the council shall have voting rights on any matter in which the council is required to make a decision.
- (6) A decision of the majority of the members of the council present at any meeting shall constitute the decision of the council: Provided that in the event of an equality of votes, the member presiding shall have a casting vote in addition to a deliberative vote.
- (7) No decision taken by the council or act performed under the authority of the council shall be invalid by reason only of an interim vacancy on the council or of the fact that a person who is not entitled to sit as a member of the council, sat as member at a time when the decision was taken or the act was authorised, if the decision was taken or the act was authorized by the requisite majority of the members of the council who were present at the time and entitled to sit as members.

13 Executive Committee of the Council

- (1) There shall be an executive committee of the council consisting of not more than 8 members, being the chairperson, the vice-chairperson, three members

appointed in terms of section 7(1)(c), a member appointed in terms section 7(1)(d), a member appointed in terms of section 7 (1)(e) and a member appointed in terms of section 7(1)(g);

- (2) The three members of the executive committee, referred to in subsection (1) who are appointed in terms of section 7(1)(c), shall be elected by the members of the council.

14 Other Committees of the Council

- (1) The council may from time to time establish such committees, including disciplinary committees, as it may deem necessary, each consisting of so many persons appointed by the council as the council may determine but including, except in the case of a disciplinary appeal committee referred to in subsection (3), at least one member of the council who shall be chairperson of such committee.
- (2) The council may, subject to the provisions of subsection (3), delegate to any committee established in terms of subsection (1), or to any person some of its powers as it may from time to time determine, but shall not be divested of any power so delegated.
- (3) The council shall from time to time as the need arises, establish *ad hoc* disciplinary appeal committees, each consisting of, as chairperson, a retired judge or retired senior magistrate, or an attorney with at least 10 years experience as such, not more than two registered persons drawn from the occupation of traditional health care practitioner and a member of the council appointed in terms of section 7(1)(h), which member shall not be a person registered in terms of this Act.
- (4) A disciplinary appeal committee referred to in subsection (3) shall have the power to vary, confirm or set aside a finding of a disciplinary committee established in terms of subsection (1) or to refer the matter back to the disciplinary committee with such instructions as it may deem fit.
- (5) A decision of a disciplinary committee, unless appealed against, shall be of force and effect from the date determined by the disciplinary committee.
- (6) Where a matter has been considered by a disciplinary appeal committee, the decision of the disciplinary appeal committee, unless appealed against, shall be of force and effect from the date determined by the disciplinary appeal committee.

15 Financial Affairs of the Council

- (1) All registration, licensing and examination fees and any other fees payable under this Act shall be paid to the council and shall constitute its funds.
- (2) The council shall utilise its funds for the defrayal of expenses incurred by the council and the office of the registrar in the performance of their functions under this Act.

- (3) The council shall cause an account to be opened with an institution registered as a bank and shall deposit in that account all moneys received in terms of this section.
- (4) The council may invest money, which is deposited in terms of subsection (3) and which is not required for immediate use, in any manner as it may deem fit.
- (5) Any money which at the close of the council's financial year stands to the credit of the council shall be carried forward to the next financial year as a credit in the account of the council.
- (6) The council may invest any unexpended portion of its moneys and may establish such reserve funds and pay therein such amounts as it may deem necessary or expedient.
- (7) The registrar shall-
 - (a) keep full and proper records of all moneys received and expenses incurred by, and of all assets, liabilities and financial transactions of, the council and the registrar; and
 - (b) as soon as is practicable, but not later than four months after the end of each financial year, prepare annual financial statements in respect of the financial year in question;
 - (c) ensure that that the council has and maintains-
 - (i) effective, efficient and transparent systems of financial and risk management and internal control;
 - (ii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;
 - (iii) a system for properly evaluating all projects involving expenditure of capital prior to a final decision on the project;
 - (d) ensure the effective, efficient, economical and transparent use of the resources of the council;
 - (e) take effective and appropriate steps to-
 - (j) collect all money due to the council;
 - (ii) prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; and
 - (iii) manage available working capital efficiently and economically;
 - (f) take into account all relevant financial considerations, including issues of propriety, regularity and value for money, when policy proposals

affecting the registrar's responsibilities are considered, and when necessary, bring those considerations to the attention of the council;

- (g) be responsible for the management, including the safeguarding and the maintenance of the assets, and for the management of the liabilities, of the council;
- (h) settle all contractual obligations and pay all money owing by the council within 30 days of due date or within a period to which the relevant creditor has agreed;
- (i) ensure that expenditure of the council is in accordance with the decisions of the council and that effective and appropriate steps are taken to prevent unauthorised expenditure;
- (j) keep full and proper records of the financial affairs of the council in accordance with any prescribed norms and standards;
- (k) prepare financial statements for each financial year in accordance with generally recognized accounting practice;
- (l) submit the financial statements within two months after the end of the financial year to the Auditor-General for auditing;
- (m) submit within five months of the end of a financial year to the Minister-
 - (i) an annual report on the activities of the council during that financial year;
 - (ii) the financial statements for that financial year after those statements have been audited; and
 - (iii) the Auditor-General's report on those statements.

16 Minister may rectify defects

If anything required to be done under this Act in connection with the appointment of any member is omitted or not done within the time or in the manner required by this Act, the Minister may order all such steps to be taken as may be necessary to rectify the omission or error or may validate anything done in an irregular manner or form, in order to give effect to the objects of this Act.

CHAPTER III**REGISTRATION OF TRADITIONAL HEALTH PRACTITIONERS****17 Appointment of the Registrar**

The Minister shall, after consultation with the council, appoint a person to be the registrar of the council to carry out its functions under this Act and the Minister may, after consultation with the council dismiss such person.

18 Functions of the Registrar

(1) The registrar shall –

- (a) be the secretary and accounting officer of the council;
- (b) perform such functions and duties assigned or imposed upon him or her in terms of this Act as well as any functions and duties assigned to or imposed upon him or her by the council;
- (c) keep registers in respect of traditional health practitioners and students and shall on the instructions of the council enter in the appropriate register the name, physical address, qualifications, date of initial registration and such other particulars, including, where applicable, the details of the traditional health practitioner's or student's specialty or category, as the council may determine of every person whose application for registration in terms of this Act has been granted;
- (d) keep the registers correctly and in accordance with the provisions of this Act and shall remove therefrom the names of all registered persons who have died or whose names have to be removed in terms of this Act and shall from time to time make the necessary alterations in the addresses or qualifications of registered persons;
- (e) convene meetings of the council and any committee thereof and maintain the records of any such meetings.

(2) The registrar may in writing authorise any member of his or her staff to exercise or perform any power, duty or function conferred or imposed on him or her by or in terms of this Act.

19 Registration as a prerequisite to practise

(1) No person shall be entitled to practise as a traditional health practitioner within the Republic unless he or she is registered in terms of this Act.

(2) Any person who wishes to register as a traditional health practitioner or a student shall apply to the registrar and shall submit with his or her application –

- (a) proof of identity, citizenship, good character and the authenticity and validity of qualification submitted;
- (b) the prescribed registration fee;
- (c) such further documents and information in relation to his or her application as may be required by the registrar on the instructions of the council.

- (3) If the registrar is satisfied that the information and documentation submitted in support of an application for registration meet the requirements of this Act, upon receipt of the prescribed registration fee, he or she shall issue a registration certificate authorizing the applicant, subject to the provisions of this Act or of any other law, to practise the occupation of traditional health practitioner within the Republic;
- (4) If the registrar is not satisfied that the information and documentation submitted in support of an application for registration meet the requirements of this Act, he or she shall refuse to issue a registration certificate to the applicant, but shall, if so required by the applicant, submit the application to the council for a decision;
- (5) The registrar shall only register a traditional health practitioner if the registrar is satisfied that the person applying for registration is suitably qualified to be a traditional health practitioner or if the council is so satisfied.
- (6) Any entry which is proved to the satisfaction of the council to have been made in error or through misrepresentation or in circumstances not authorised by this Act may be removed from the register and a record of the reason for every such removal shall be made in the register and the person in respect of whose entry such removal has been made shall be notified thereof in the manner contemplated in section 20(2) and any certificate issued in respect of the registration in question shall be deemed to be cancelled as from the date on which notice has so been given
- (7) The registrar shall delete from the register the name of the registered traditional health practitioner or mark in the register the name of any person suspended from practice and shall notify such person in writing accordingly.

20 Removal of name and restoration to register

- (1) The council may instruct the registrar to remove from the register the name of any person-
 - (a) who has died;
 - (b) who has ceased to be a citizen of the Republic and has permanently left the Republic;
 - (c) who has been absent from the Republic for a continuous period of more than three years;
 - (d) who has failed to pay any relevant prescribed fee;
 - (e) who has failed to notify the registrar of any change in residential and postal address or the address of his or her practice within six months after any such change;
 - (f) who has requested that his or her name be removed from the register, in which case he or she may be required to lodge with the registrar an

affidavit or affirmation to the effect that no disciplinary or criminal proceedings are being or are likely to be instituted against him or her;

- (g) who has been found guilty of improper or disgraceful conduct in terms of this Act;
 - (h) whose name has been removed the register, record or roll of any university, hospital, college, society or other body from which he or she received the qualification by virtue of which he or she was registered;
 - (i) who has been registered through error or fraud;
 - (j) who has failed to furnish the registrar, within a period to be determined by the council, with such information as the registrar may require under this Act;
 - (k) whose registration is proved to the satisfaction of the council to have been made in error or through fraudulent misrepresentation or concealment of material facts or information or in circumstances not authorised by this Act;
 - (l) who is suffering from a mental illness or who becomes a patient as defined in the Mental Health Act, 1973 (Act No 18 of 1973) or its successor.
- (2) Notice of the removal in terms of subsection (1) by virtue of the provisions of any of paragraphs (b) up to and including (l) of subsection (1) of a person's name from the register shall be given by the registrar to the person concerned by registered mail addressed to such person at the address of such person as it appears in the register.
- (3) As from the date on which notice was given in terms of subsection (2) -
- (a) any registration certificate issued in terms of this Act to the person concerned shall be deemed to have been cancelled; and
 - (b) a person whose name has been removed from the register shall cease to practise as a traditional health practitioner and shall not perform any act which he or she, in his capacity as a registered person, was entitled to perform
- until such time as his or her name or the entry removed from the register as the case may be, is restored to the register.
- (4) The name of a person whose name has in terms of this section been removed from the register shall be restored to the register by the registrar if the person concerned -
- (a) applies on the prescribed form for restoration of his or her name to the registrar; and
 - (b) pays the prescribed fee, if any; and

- (c) complies with such other requirements as the council may from time to time determine.

21 Issue of duplicate registration certificate, certificate of status, extract from register or certificate by registrar

- (1) The registrar may, on application by a registered traditional health practitioner, issue a duplicate certificate of registration if:
 - (i) he or she is satisfied as to the identity of the applicant; and
 - (ii) the applicant has produced an affidavit certifying that the certificate of registration has been lost or destroyed;
 - (iii) the applicant has paid any prescribed fee determined by the council.
- (2) The registrar may, upon payment of the prescribed fee, issue to any registered person a certificate of status containing particulars relating to such person's registration as well as a statement to the effect that the said person is not disqualified from practising his or her occupation and that no disciplinary steps are pending against him or her in terms of this Act.
- (3) The registrar may issue a certified extract from the register or a certificate referred to in subsection (2) under his hand to any person upon payment of the prescribed fee.
- (4) A certificate may be issued subject to certain conditions imposed by the council and such conditions shall be indicated on the certificate.

22 Custody and publication of registers

The registers shall be kept at the office of the registrar, and the council may, at intervals determined by it, cause copies of the registers or supplementary lists showing additions, removals, amendments, or revisions effected since the last publication of copies of the complete registers, to be printed and published.

23 Register as proof

- (1) A copy of the last published issue of a register or any supplementary list purporting to be printed and published on the authority of the council shall be *prima facie* proof in all legal proceedings, of the facts therein recorded and the absence of the name of any person from such copy shall be proof, until the contrary is proved, that such person is not registered according to the provisions of this Act: provided that in the case of any person whose name-
 - (a) does not appear in such copy, or whose name has been added to the register after the date of the last published issue thereof, a certified copy under the hand of the registrar of the entry of the name of such person in the register shall be proof that such person is registered under the provisions of this Act;
 - (b) has been removed from the register since the date of the last published issue thereof and has not been restored thereto, a certificate under the

hand of the registrar that the name of such person has been removed from the register shall be proof that such person is not registered according to the provisions of this Act.

- (2) A certificate of registration shall be evidence of registration for a period of one year only and thereafter an annual practising certificate which shall be issued upon payment of the prescribed annual fee and the submission of such information as may be required by the council to enable to keep accurate statistics on human resources in the health field, shall be regarded as proof of registration.

24 Right to Appeal

- (1) Any person who is aggrieved by a decision of the registrar may lodge an appeal within thirty days of the decision to the council.
- (2) Any person who is aggrieved by a decision of the council may appeal to the appropriate High Court against such decision.

25 Qualifications Prescribed For Registration

The Minister may, on the recommendation of the council, prescribe qualifications obtained by virtue of examinations conducted by an accredited institution, educational authority or other examining authority in the Republic, which, held singly or conjointly with any other qualification shall entitle any holder thereof to registration in terms of this Act if he or she has, before or in connection with or after the acquisition of the qualification in question, complied with such conditions or requirements as may be prescribed.

26 Conditions Relating To Continuing Education

The council may from time to time make rules which prescribe –

- (a) conditions relating to continuing education and training to be undergone by persons registered in terms of this Act in order to retain such registration;
- (b) the nature and extent of continuing education and training to be undergone by persons registered in terms of this Act; and
- (c) the criteria for recognition by the council of continuing education and training courses and of education institutions offering such courses.

CHAPTER IV**Disciplinary inquiries and powers of the council in respect thereof****27 Inquiries by the council into charges of misconduct:**

- (1) Notwithstanding anything contrary to the provisions of this Act, the council shall have the power to institute an inquiry into any complaint, allegation or charge of unprofessional conduct against any person registered in terms of this Act and on finding such person guilty of such conduct, to impose any of the penalties prescribed in section 29: provided that in the case of a complaint, charge or allegation which forms or is likely to form the subject of a criminal case in a court of law, the council may postpone the holding of an inquiry until such case has been determined.
- (2) If the council is in doubt as to whether any inquiry should be held in connection with a complaint, charge or allegation, it may, in connection with the allegation, charge or complaint in question, consult with or seek further information from any person, including the person against whom the allegation, charge or complaint has been lodged.

28 Manner in which certain investigations may be instituted

- (1) The registrar may with the approval of the chairperson of the council appoint an officer of the council as investigating officer for the purposes of this section.
- (2) If the registrar deems it necessary, he or she may with the approval of the chairperson of the council and on such conditions as the council may determine, appoint any person other than a member of the council, who is not in the full-time employment of the council, as investigating officer for a particular investigation, or to assist the investigating officer contemplated in subsection (1) with a particular investigation.
- (3) A person appointed in terms of subsection (2) shall, for the purpose of the investigation in question, have the same powers and duties as the investigating officer contemplated in subsection (1).
- (4) The registrar shall issue to every person appointed under subsection (1) or (2) a certificate to the effect that he or she has so been appointed, and, in the case of a person appointed for, or to assist with, a particular investigation, that he has been appointed for such investigation, and in the exercise of his powers and the carrying out of his duties that person shall on demand produce such certificate.
- (5) If the registrar deems it necessary for the achievement of the objects of this Act, he may institute or cause to be instituted an investigation-
 - (a) into an alleged contravention of, or failure to comply with, any provision of this Act;
 - (b) in order to determine if any provision of this Act applies to a registered person;
 - (c) into a charge, complaint or allegation of improper or disgraceful conduct by a registered person;

- (d) into the affairs or conduct of a registered person, if requested to do so by a person by reason of allegations confirmed upon oath.
- (6) The registrar or an investigating officer who carries out an investigation in terms of this section may-
- (a) at any time reasonable for the proper performance of the duty, with the approval of the chairperson of the council and without prior notice enter upon, enter and search any premises, and carry out such an investigation and make such enquiries as he may deem necessary;
- (b) while he is on the premises or at any other time request any person found on the premises to immediately or at a time and place determined by the registrar or investigating officer-
- (i) produce to him any book, document or thing relating to, or which he on reasonable grounds believes to relate to, the matter which he is investigating, and which is or was on the premises, or in the possession or custody or under the control of that person or his employee or agent;
- (ii) furnish such explanations to him as he may require in respect of any such book, document or thing;
- (c) at any time and at any place request any person who has or is suspected on reasonable grounds of having in his possession or custody or under his control any book, document or thing relating to the matter which he is investigating, to produce it immediately or at a time and place determined by the registrar or investigating officer, examine such book, document or thing, make extracts from and copies of the book or document, and request any person to furnish such explanations to him as he may require in respect of any entry in that book or document;
- (7) The registrar or an investigating officer who carries out an investigation under this section, shall compile a report of the investigation, and a report compiled by an investigating officer shall be submitted to the registrar.
- (8) If the report referred to in subsection (7) reveals *prima facie* evidence of improper or disgraceful conduct contemplated in this Act and no complaint, charge or allegation regarding the conduct in question has been made for the purpose of an inquiry in terms of section 27, such report shall be deemed to be a complaint made for that purpose, and the registrar shall serve a copy thereof on the registered person concerned.
- (9) If the report referred to in subsection (7) reveals *prima facie* evidence which in the opinion of the chairperson of the council makes it desirable that an inquiry on the grounds of apparent impairment be instituted, the registrar shall serve a copy thereof on the registered person concerned.
- (10) If the report referred to in subsection (7) does not reveal *prima facie* evidence of unprofessional conduct contemplated in this Act, the registrar shall serve a copy thereof to the registered person concerned.

- (11) To the extent that the report referred to in subsection (7) contains statements of witnesses which would have been admissible as oral evidence at an inquiry into impairment or complaints, charges or allegations unprofessional conduct, the provisions of section 213 of the Criminal Procedure Act, 1977 (Act 51 of 1977), shall apply *mutatis mutandis* in respect of those statements at such an inquiry.
- (12) A person who carries out or assists with the carrying out of an investigation in terms of this section, shall keep or assist in preserving secrecy in respect of all facts which come to his notice in the performance of his functions, and shall not disclose any such fact to any person except the registrar, the chairperson, the council, or the public prosecutor concerned in the case of an offence in terms of this Act, or by order of a court or in terms of any law.
- (13) Notwithstanding the provisions of subsection (12), no personal particulars regarding a patient shall be disclosed to any person except by order of a court or with the consent of the presiding officer at an inquiry contemplated in terms of this Act.
- (14) The court order referred to in subsection (13) shall be executed as if it were a judgment in a civil case in a magistrate's court.
- (15) Any person who-
- (a) refuses or neglects to produce any book, document or thing to any person who is in terms of this section authorized to ask therefor;
 - (b) hinders or obstructs the registrar or an investigating officer in the exercise of his powers or the carrying out of his duties;
 - (c) pretends that he is the registrar or an investigating officer;
 - (d) contravenes a provision of subsections (12) or (13),
- shall be guilty of an offence and liable on conviction-
- (i) in the case of a contravention contemplated in paragraph (a), (b) or (c), to a fine in the amount prescribed from time to time or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment;
 - (ii) in the case of a contravention contemplated in paragraph (d), to a fine not exceeding the amount prescribed from time to time or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.
- (16) The provisions of this section shall be without prejudice to the power of any authority to institute an investigation into any alleged contravention of, or failure to comply with, any provision of this Act.

29 Matters of and procedure at inquiry

- (1) Every person registered under this Act who, after an inquiry held by the council, is found guilty of improper or disgraceful conduct, or conduct which, when regard is had to such person's occupation, is improper or disgraceful, shall be liable to one or more of the following penalties-
 - (a) a caution or a reprimand or a reprimand and a caution; or
 - (b) suspension for a specified period from practising or performing acts specially pertaining to his occupation; or
 - (c) removal of his name from the register; or
 - (d) a fine up to a maximum amount prescribed by the Minister; or
 - (e) a compulsory period of community service as may be determined by the council; or
 - (f) the payment of the costs of the proceedings or a restitution.
- (2) If an appeal is lodged against a penalty of erasure or suspension from practice, such penalty shall remain effective until the appeal is heard.
- (3) Every person whose conduct is the subject of an inquiry under section 27, shall be afforded an opportunity, by himself or through his legal representative, of answering the charge and of being heard in his defence.
- (4) For the purposes of any inquiry held in terms of section 27, the council may take evidence and may, under the hand of the chairperson or the registrar, summon witnesses and require the production of any book, record, document or thing, and may, through the chairperson of the council or the person presiding at the inquiry, administer an oath to any witness or accept an affirmation from him or her, and may examine any book, record, document or thing which any witness had been required to produce.
- (5) A summons to appear before the council as a witness or to produce to it any book, record, document or thing shall be, as nearly as practicable, in the prescribed form, shall be signed by the chairperson of the council or the registrar and shall be served either by registered letter sent through the post or in the same manner as it would have been served if it were a subpoena issued by a magistrate's court.
- (6) Every person summoned in terms of this subsection shall be bound to obey the summons and any person who, having duly been summoned-
 - (i) refuses, or without sufficient cause fails, to attend and give evidence relevant to the inquiry at the time and place specified in the summons;
 - (ii) refuses to take the oath or to make an affirmation when required by the chairperson of the council or the person presiding at the inquiry to do so;

(iii) refuses to produce any book, record, document or thing which he has in terms of the summons been required to produce;

shall be guilty of an offence and on conviction liable to a fine as determined by the Minister in consultation with the Minister of Justice by notice in the Gazette: Provided that every person so summoned shall be entitled to all the privileges to which a witness subpoenaed to give evidence before a provincial division of the High Court is entitled.

- (7) The chairperson of the council may appoint a person with adequate experience in the administration of justice to be present as an assessor at an inquiry and to advise the council or the disciplinary committee, as the case may be, on matters of law, procedure or evidence.
- (8) The council may, if it deems fit, and subject to such conditions as it may determine-
 - (a) terminate any suspension under subsection (1) before the expiry of the specified period; or
 - (b) on payment of the prescribed fee, restore to the register any name which has been removed therefrom.
- (9) If a person registered in terms of this Act (in this section referred to as the accused) is alleged to be guilty of unprofessional conduct and the council on reasonable grounds is of the opinion that it shall impose a fine as determined by the Minister in consultation with the Minister of Justice by notice in the Gazette on conviction after an inquiry in terms of section 27, the council may issue a summons as prescribed on which an endorsement is made by the council that the accused may admit that he or she is guilty of the said conduct and that he or she may pay the fine stipulated without appearing at the said inquiry.
- (10) Where a summons is issued against an accused in terms of this Act, the accused may, without appearing at an inquiry in terms of section 27, admit his or her guilt in respect of the conduct referred to in subsection (1) by paying the stipulated fine (in this section referred to as the admission of guilt fine) to the council before a date specified in the summons.
- (11) Any penalty imposed under this section, excluding an admission of guilt fine, shall be paid to the council within 14 days after such imposition.
- (12) The imposition of a penalty shall have the effect of a civil judgment of the magistrate's court of the district in which the inquiry under section 27 took place.
- (13) The Minister may on the recommendation of the council amend the amount mentioned in subsection (7) by notice in the Gazette.

30 Postponement of imposition, and suspension of operation of penalty or part thereof.

- (1) Where a person has been found guilty of any conduct referred to in section 27, the council may -
 - (a) postpone the imposition of a penalty for such period and on such conditions as it may determine; or
 - (b) impose any penalty referred to in section 29 (1) (b), (c) or (d), but order the execution of such penalty or any part thereof to be suspended for such period and on such conditions as it may determine.
- (2) If at the end of the period for which the imposition of a penalty has been postponed in terms of subsection (1) (a), the council is satisfied that the practitioner concerned has observed all the relevant conditions, the council shall inform him or her that no penalty will be imposed upon him or her.
- (3) If the execution of the penalty or any part thereof has been suspended in terms of subsection (1) (b) and the council is satisfied that the practitioner concerned has observed all the relevant conditions throughout the period of suspension, the council shall inform him or her that the penalty will not be executed.
- (4) If the execution of a penalty or any part thereof has been suspended in terms of subsection (1) (b) and the practitioner concerned fails to observe any one of the conditions of suspension, the council shall put such penalty or part thereof into operation unless the practitioner satisfies the council that the non-observance of the condition concerned was due to circumstances beyond his or her control.

31 Effect of suspension or removal from register

Every person who has been suspended or whose name has been removed from the register in terms of section 29 shall be disqualified from carrying on his or her occupation and his or her registration certificate shall be deemed to be cancelled until the period of suspension has expired or until his or her name has been restored to the register by the council.

32 Cognizance by council of conduct of registered persons under certain circumstances

- (1) Every registered person who, either before or after registration, has been convicted of any offence by a court of law may be dealt with by the council in terms of the provisions of this chapter if the council is of the opinion that such offence constitutes unprofessional conduct, and shall be liable on proof of the conviction to one or more of the penalties referred to in section 29: Provided that, before imposition of any penalty, such person shall be afforded an opportunity of tendering an explanation to the council in extenuation of the conduct in question.
- (2) Whenever in the course of any proceedings before any court of law it appears to the court that there is *prima facie* proof of unprofessional conduct on the part of a person registered in terms of this Act, the court shall direct that a

copy of the record of such proceedings, or such portion thereof as is material to the issue, shall be transmitted to the council.

33 Penalty for false evidence

Any person who gives false evidence on oath at any inquiry held in terms of this Act, knowing such evidence to be false, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for the crime of perjury.

34 Limitation of liability

Save as is provided in this Act, the council or any member or officer thereof shall not be liable in respect of any act done in good faith or duty performed in accordance with this Chapter.

35 Council to make rules relating to offences under this Chapter

- (a) The council shall from time to time make rules specifying the acts or omissions in respect of which the council may take disciplinary steps in terms of this chapter: Provided that the powers of the council to inquire into and deal with any complaint, charge or allegation relating to a health occupation under this chapter, shall not be limited to the acts or omissions so specified.
- (b) No rule made in terms of subsection (1) or any amendment or withdrawal thereof shall be of force and effect until approved by the Minister and published in the Gazette.

36 Regulations relating to inquiries in respect of impaired persons registered in terms of this Act

The Minister may, after consultation with the council, make regulations relating to inquiries in respect of students or persons registered in terms of this Act who appear to be impaired, on the assessment of their condition, the conditions to be imposed on their registration or practice, their suspension or removal from practising, revocation of conditions, suspension or removal and on acts of unprofessional conduct committed before or during assessment or investigation.

CHAPTER V

General and supplementary provisions

37 Charges by registered persons

- (1) Every person registered under this Act shall, unless the circumstances render it impossible for him to do so, before rendering any traditional health services inform the person to whom the services are to be rendered or any

person responsible for the maintenance of such person, of the fee which he intends to charge for such services-

- (a) when so requested by the person concerned; or
- (b) when such fee exceeds that usually charged for such services,

and shall in a case to which paragraph (b) relates, also inform the person concerned of the usual fee.

- (2) Any traditional health practitioner who in respect of any traditional health services rendered by him claims payment from any person (in this section referred to as the patient) shall, subject to the provisions of the Medical Schemes Act, 1998 (Act 131 of 1998) where applicable, furnish the patient with a detailed account within a reasonable period.
- (3) The patient may, within three months after receipt of the account referred to in subsection (2), apply in writing to the council to determine the amount which in the opinion of the council should have been charged in respect of the services to which the account relates, and the council shall, as soon as possible after receipt of the application, determine the said amount and notify the traditional health practitioner and the patient in writing of the amount so determined: Provided that before the council determines the said amount, it shall afford the practitioner concerned an opportunity to submit to it in writing his or her case in support of the amount charged.
- (4) The Minister may, after consultation with the council, make such regulations as he or she may deem necessary in relation to the procedure which the council shall follow in disposing of an application under subsection (3).
- (5) The council may from time to time determine and publish the fees used by the council as the norm for the determination of amounts contemplated in subsection (3).
- (6) A claim which is the subject of an application referred to in subsection (3) of which notice has been given by the council or the patient to the traditional health practitioner, shall not be recoverable until a determination has been made in terms of that subsection, and when such a determination has been made no amount which exceeds the amount so determined, shall be payable: Provided that if the patient has paid to the traditional health practitioner an amount in settlement or part settlement of such claim and such amount exceeds the amount so determined, the traditional health practitioner shall pay the amount by which that payment exceeds the amount so determined back to the patient.
- (7) This section shall not be deemed to divest the council of any of its powers or functions in terms of this Act with regard to acts or omissions in respect of which it may take disciplinary steps.

38 Penalty for false representation inducing registration, for false entries in register and for impersonation

Any person who-

- (a) procures or attempts to procure for himself or any other person registration under this Act or any certificate or decision referred to in this Act by means of a false representation, whether verbally or in writing, or aids or abets any person in so doing;
- (b) makes or causes to be made any unauthorized entry or alteration in or removal from a register or certified copy thereof or extract therefrom or on any certificate issued under this Act;
- (c) wilfully destroys or damages or renders illegible or causes to be destroyed, damaged, or rendered illegible any entry in the register or, without the permission of the holder thereof, any certificate issued under this Act;
- (d) forges or, knowing it to be forged, utters any document purporting to be a certificate issued under this Act;
- (e) impersonates any person registered in terms of this Act; or
- (f) supplies or offers to supply to any person not registered under this Act or any other law, an instrument or appliance which can be used, or is claimed to be effective, for the purpose of diagnosing, treating or preventing physical or mental defects, illnesses or deficiencies in man, knowing that such instrument or appliance will be used by such unregistered person for the purpose of performing for gain an act which such unregistered person is in terms of the provisions of this Act or any other law prohibited from performing for gain,

shall be guilty of an offence and on conviction liable to a fine not exceeding the maximum amount as prescribed from time to time by the Minister, in consultation with the Minister of Finance, in the Gazette.

39 Limitations in respect of unregistered persons

- (1) No remuneration shall be recoverable in respect of any act specially pertaining to the occupation of a traditional health practitioner when performed by a person who is not authorized under this Act to perform such act for gain.
- (2) No person other than a person registered in terms of this Act, holding the necessary qualifications, shall be eligible for or entitled to hold any appointment to any establishment, institution, body, organization or association, whether public or private, if such appointment involves the performance of any act which an unregistered person, in terms of the provisions of this Act, may not perform for gain: Provided that nothing in this subsection contained shall be construed as prohibiting the training of traditional health practitioners under the supervision of a suitably qualified traditional health practitioner, or the employment in any hospital or similar institution of any person undergoing training with a view to registration in

terms of this Act, under the supervision of a suitably qualified traditional health practitioner or other health professional.

40 Investigation of matters relating to the teaching or training of certain classes of persons

- (1) Notwithstanding anything to the contrary in any law contained, any person who has been authorized by the council in writing to investigate any matter relating to the teaching or training of any person or class of persons undergoing such teaching or training for the purpose of qualifying themselves for the practising of the occupation to which the provisions of this Act apply, may, for the purpose of making such investigation, enter any institution or premises utilized in the teaching or training of any such person or class of persons.
- (2) Any person who prevents any person authorized in terms of subsection (1) from entering any institution or premises referred to in that subsection, or who hinders him in the making therein or thereon of any investigation contemplated in that subsection, shall be guilty of an offence and on conviction liable to a fine not exceeding the amount prescribed by the Minister, in consultation with the Minister of Finance, in the Gazette from time to time.

41 Exemption from operation of provisions of Act

- (1) The Minister may, after consultation with the council, by notice in the Gazette exempt any juristic person or class of juristic persons specified in the notice, either generally or subject to such conditions as may be specified in the notice, from the operation of any of the provisions of this Act, so as to enable such juristic person to practise as a traditional health practitioner, likewise specified, in respect of which registration in terms of this Act is a prerequisite for practising.
- (2) Any reference in this Act or any other law to a person registered in terms of this Act to practise an occupation referred to in subsection (1) or to a partner of or a partnership in relation to such registered person, shall be deemed to include a reference to a juristic person referred to in subsection (1) or to a member of such a juristic person, as the case may be, unless the context otherwise indicates.
- (3) The Minister may after consultation with the council at any time by notice in the Gazette amend or repeal any notice issued under subsection (1).

42 Regulations

- (1) The Minister may, after consultation with the council, make regulations relating to-
 - (a) appointment of members of the council;

- (b) (i) the registration by the council of students in any prescribed category of traditional health practice undergoing education or training at any accredited training institution, educational authority or with any master, the fees payable in respect of such registration and the removal by the council from the register in question of the names of such students so registered;
 - (ii) the standards of education and training required of students as a condition precedent to registration;
 - (iii) the duration of the educational programme to be followed by students at an educational or training institution or with a master;
 - (iv) the minimum requirements of the curricula and the standards of education or examinations to qualify for registration in terms of this Act, which must be maintained at every educational or training institution or by every master offering training in the occupation of traditional health practitioner, in order to secure recognition under this Act of the qualifications in question;
- (c) (i) the minimum age and the standard of general education required of a candidate for examination for a certificate entitling the holder thereof to registration in terms of this Act;
 - (ii) the persons who may be admitted to examinations;
 - (iii) the courses of study and the training required for examinations;
 - (iv) institutions at which or persons with whom educational courses or training may be taken or undergone and any other requirements in connection with such study or training;
 - (v) the registration by the council of persons taking or undergoing educational courses or training and the fees payable in respect of such registration;
 - (vi) the fees payable by candidates for examinations;
 - (vii) the appointment and remuneration of examiners for examinations;
 - (viii) the issue of certificates by the council and any other matter incidental to examinations or the issue of certificates;
 - (ix) the nature and duration of the practical training to be undergone by persons before they may be registered;
 - (x) the nature and duration of the training to be undergone by any person who has obtained a qualification as a traditional health practitioner, but who is not yet registered as such, before he or she may be registered as such;

- (d) the conditions under which any registered person may practise as a traditional health practitioner or practise in any category of traditional health practice ;
- (e)
 - (i) the registration of students of traditional health practice, including the recording of particulars of their training and proof of the performance thereof;
 - (ii) the health establishments or other institutions, if any, at which or the persons with whom such training may be undertaken;
 - (iii) any other matter incidental to the registration or training of students
- (f)
 - (i) the registration of the categories of registered persons, including but not limited to traditional birth attendants and traditional surgeons;
 - (ii) the registration of specialties;
 - (iii) the requirements to be satisfied, including the experience to be obtained, the nature and duration of the training to be undergone and the qualifications to be held by persons before any category or specialty may be registered;
 - (iii) the circumstances under which any applicant for the registration of a speciality shall be exempted from any of such requirements;
 - (iv) conditions in respect of the practices of persons whose categories or specialties have been registered, including conditions restricting the practice of any such person to the category or specialty registered in his or her name;
- (g) the conduct of an inquiry held in terms of section 27 including-
 - (i) the manner in which complaints or charges brought against a registered person shall be lodged;
 - (ii) the method of summoning an accused person and the penalties for failure or refusal on the part of any such person to attend or for obstructing or interrupting the proceedings;
 - (iii) the continuation of a disciplinary inquiry, after a plea has been lodged, by the committee conducting the inquiry, should one or more members of the committee be unable to continue to serve: Provided that not less than two of the original members of the committee are available to continue with the inquiry;
 - (iv) the procedure to be followed to lodge an appeal with an appeal committee and the time within which an appeal may be lodged;
 - (v) any other matter relating to the conduct of such an inquiry;

- (h) traditional medicines in order to protect the public and ensure safety of use, administration or application;
 - (i) standards of traditional health practice in order to ensure practices that are not detrimental to the health of patients or the general public;
 - (j) scopes of practice of traditional birth attendants, traditional surgeons and such other categories of traditional health practitioners as may be prescribed;
 - (k) any matter which in terms of this Act is required to be prescribed by regulation;
 - (l) any matter necessary to effect the smooth implementation of this Act and the transition of traditional health practice from an unregulated to a regulated occupation; and
 - (m) generally, all matters which the Minister considers necessary or expedient to prescribe in order that the purposes of this Act may be achieved, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.
- (2) The provisions of any regulation made under paragraph (e) of subsection (1) relating to fees payable under section 20 (4) may vary according to the reason for the removal of a person's name from the register and the period during which it was so removed.
- (3) Any regulation made under this section may prescribe penalties for any contravention thereof or failure to comply therewith.
- (4) Any proclamation or notice issued or regulation, rule or order made under this Act may from time to time be amended or repealed by the authority by which it was issued or made.
- (5) The Minister shall, not less than three months before any regulation is made under subsection (1), cause the text of such regulation to be published in the Gazette together with a notice declaring his or her intention to make such regulation and inviting interested persons to furnish him or her with any comments thereon or any representations they may wish to make in regard thereto.
- (6) The provisions of subsection (5) shall not apply in respect of-
- (a) any regulation which, after the provisions of subsection (6) have been complied with, has been amended by the Minister in consequence of representations received by him or her in pursuance of the notice issued thereunder; and
 - (b) any regulation in respect of which the Minister is advised by the council that the public interest requires it to be made without delay.

43 Rules

- (1) The council may make rules relating to-
 - (a) the conduct of the business and the procedure at meetings of the council and committees of the council and the manner in which minutes of such meetings shall be kept;
 - (b) the manner in which contracts shall be entered into on behalf of the council, the accounts of the council shall be kept and the manner in which money accruing to the council shall be disposed of;
 - (c) the allowances which may be paid to members of the council or to members of committees of the council;
 - (d) the duties and conditions of service of the registrar and other officers appointed in terms of this Act;
 - (e) any fees payable in terms of this Act;
 - (f) the forms of the registers to be kept in terms of this Act and of all certificates which may be issued under this Act and the manner in which alterations may be effected in such registers;
 - (g) the forms to be completed and the documents to be submitted by applicants for registration or for restoration to the register;
 - (h) the returns and information to be furnished by any person registered in terms of this Act;
 - (i) the nature and duration of training to be undergone by any person who has obtained a qualification in traditional health practice but who is not yet registered as a traditional health practitioner, before he or she may be registered as such;
 - (j) the circumstances under which any person referred to in paragraph (i) shall be entitled to exemption from such training;
 - (k) the minimum ages of persons eligible for registration in terms of this Act;
 - (l) the qualifications which may be registered as additional qualifications in terms of this Act; and
 - (m) any matter which in terms of this Act is required to be or may be promulgated as rules.
- (2) The council shall, not less than three months before any rule is made in terms of this Act, cause the text of such rule to be published in the Gazette together with a notice declaring the council's intention to make such rule and inviting interested persons to furnish the council with any comments thereon or any representations they may wish to make in regard thereto.

44 Offences

- 1) Any person, not registered as a traditional health practitioner or as a student, who-
 - (a) for gain practises as a traditional health practitioner (whether or not purporting to be registered);
 - (b) for gain-
 - (i) physically examines any person;
 - (ii) performs any act of diagnosing, treating or preventing any physical defect, illness or deficiency in respect of any person;
 - (iii) advises any person on his physical or mental state;
 - (iv) on the ground of information provided by any person or obtained from him in any manner whatsoever-
 - (aa) diagnoses such person's physical or mental state;
 - (bb) advises such person on his physical or mental state;
 - (cc) supplies or sells to or prescribes for such person any traditional medicine or treatment;
 - (v) prescribes or provides any traditional medicine, substance or thing; or
 - (vi) performs any other act specially pertaining to the occupation of a traditional health practitioner;
 - (c) except in accordance with the provisions of any law, performs any act whatsoever having as its object-
 - (i) the diagnosis, treatment or prevention of any physical defect, illness or deficiency in any person; and
 - (ii) by virtue of the performance of such act, the obtaining, either for himself or for any other person, of any benefit by way of any profit from the sale or disposal of any traditional medicine, foodstuff or substance or by way of any donation or gift or by way of the provision of accommodation, or the obtaining of, either for himself or for any other person, any other gain whatsoever;
 - (d) pretends, or by any means whatsoever holds himself out, to be a traditional health practitioner or student (whether or not purporting to be registered) or a healer, of whatever description, of physical defects, illnesses or deficiencies in man;

- (e) uses the name of traditional health practitioner, student, healer or doctor or any name, title, description or symbol indicating, or calculated to lead persons to infer, that he is the holder of any qualification as a traditional health practitioner or of any other qualification enabling him to diagnose, treat or prevent physical defects, illnesses or deficiencies in man in any manner whatsoever, or that he is registered under this Act as a traditional health practitioner or a student;
- (f) except in accordance with the provisions of any law, by words, conduct or demeanour holds himself or herself out to be able, qualified or competent to diagnose, treat or prevent physical defects, illnesses or deficiencies in man or to prescribe or supply any traditional medicine, substance or thing in respect of such defects, illnesses or deficiencies; or
- (g)
 - (i) diagnoses, treats or offers to treat, or prescribes treatment or any cure for cancer, HIV/AIDS or such other terminal disease as may be prescribed;
 - (i) holds himself out to be able to treat or cure cancer, HIV/AIDS or such other terminal disease as may be prescribed or to prescribe treatment therefor; or
 - (ii) holds out that any article, compound, traditional medicine or apparatus is or may be of value for the alleviation, curing or treatment of cancer, HIV/AIDS or such other terminal disease as may be prescribed.

shall be guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

- (2) For the purposes of subsection (1) 'cancer' shall include all neoplasms, irrespective of their origin, including lymphoma and leukaemia.
- (3) Any person who is not registered as a traditional health practitioner, but-
 - (i) pretends to be so registered in respect of such occupation; or
 - (ii) uses any name, title, description or symbol indicating, or calculated to lead persons to infer that he or she is the holder of any qualification which by rule under this Act is recognized by the council as acceptable for registration in respect of such occupation, but of which qualification he or she is not the holder; or
 - (iii) uses any name declared by regulation to be a name which may not be used,

shall be guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment.

45 Levying of annual fees on certain registered persons

- (1) The Minister may, on the recommendation of the council, at any time by notice in the Gazette prescribe a fee to be paid annually to the council by the registered persons concerned: Provided that in prescribing such fee the council may differentiate between persons according to whether they have been registered before or after a date specified in the notice and may vary such fee according to whether it is paid before or after a specific date.
- (2) If any person liable to pay any annual fee prescribed in terms of subsection (1) fails or refuses to pay such fee within the period specified in the notice in question, the council may recover such fee by action in a competent court.
- (3) If a person's name has been removed from the register in terms of this Act it shall be a condition precedent for the restoration of his or her name to the register that he or she pays the outstanding annual fee.
- (4) The council may by resolution exempt for an indefinite or definite period any registered person specified in the resolution from payment of any annual fee prescribed in terms of subsection (1).

46 Transitional provisions

For a period of one year from the date of commencement of this Act, no person shall be subject to legal or disciplinary action or any penalty contemplated in this Act for engaging in traditional health practice without being registered in terms of this Act: provided that upon the expiry of such period, all applicable legal and disciplinary steps and penalties contemplated in this Act may be taken against or imposed upon persons acting in contravention of the registration requirements of this Act.

47 Short title and commencement

This Act shall be called the Traditional Health Practitioners Act, 2003 and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.
