

# Government Gazette, No. 21292

21 June 2000

## GENERAL NOTICE Notice 2234 of 2000

### DEPARTMENT OF HEALTH

#### CHIROPRACTORS, HOMEOPATHS AND ALLIED HEALTH SERVICE PROFESSIONS AMENDMENT BILL, 2000

The Minister of Health intends to table the Chiropractors, Homeopaths and Allied Health Service Professions Amendment Bill, 2000 in Parliament during this year.

Interested persons are invited to submit any substantiated comments or representations on the Chiropractors, Homeopaths and Allied Health Service Professions Amendment Bill, 2000 to the Director-General of Health: Private Bag X828, Pretoria, 0001 (for the attention of Prof Gumbi) within one month of the date of publication of this notice

#### GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing enactments

\_\_\_\_\_ Words underlined with the solid line indicate insertions in existing enactments

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#### BILL

To amend the Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982, so as to insert certain definitions, to provide for the establishment of professional boards; to democratically restructure the relationship between the Chiropractors, Homeopaths and Allied Health Service Professions Interim Council and its professional boards, their powers and functions; and for matters relating to the responsibility, accountability, democratisation and transparency of the new Allied Health Professions Council of South Africa and its professional boards.

BE IT ENACTED by Parliament of the Republic of South Africa, as follows: -

**Amendment of section 1 of Act 63 of 1982 as amended by section 1 of Act 108 of 1985, section 1 of Act 10 of 1990, section 1 of Act 63 of 1993, sections 1 and 9(b) of Act 40 of 1995**

1. Section 1 of the Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982 (hereinafter referred to as "the principal Act), is amended by-

a. the insertion before the definition of "annual fees" of the following definition:

"**acupuncturist**" means a person registered as such under this Act;

b. the substitution for the definition of "allied health service profession" of the following definition:

"allied health [**service**] profession" means [**any**] the profession of ayurveda, chinese medicine and acupuncture chiropractic homeopathy, massage therapy, naturopathy, osteopathy, phytotherapy, therapeutic aromatherapy therapeutic reflexology or any other health profession registered in terms of this Act and referred to in section 16;

c. the insertion after the definition of "annual fees" of the following definitions:

"**ayurveda and chinese medicine professional board**" means the professional board for the professions of ayurveda and chinese medicine and acupuncture;

'**ayurveda practitioner**' means a person registered as such under this Act;

'**chairperson**' means a person registered as such under this Act;

'chiropractor' means a person registered as such under this Act;

'complementary professions board' means the professional board for the professions of homeopathy, naturopathy and phytopathy;

d. the substitution for the definition of "council" of the following definition:

**"council"** means the **[Chiropractors, Homeopaths and] Allied Health [Service] Professions [Interim] Council** of South Africa established by section 2;"

e. the insertion after the definition of "Director General" of the following definition:

"educational institution" means any university or technikon established by an Act of Parliament and approved by the council to offer training in any profession for which a register has been established in terms of this Act or any private school registered with the Department of Higher Education and approved by the council to offer such training;

'examining authority' means any person or group of persons approved by the council to conduct examinations in any subject falling under any profession registered in terms of the Act;"

f. the substitution in the definition of "former council" for the expression "1995" of the expression "2000";

g. the insertion of the following definitions after the definition of "former council":

"homeopath" means a person registered as such under this Act;

'impaired' means a mental or physical condition, or the abuse of or the dependence on chemical substances which affects the competence, attitude, judgement or performance of a student or a person registered in terms of this Act;

'integrated health professions board' means the professional board for the professions of massage therapy, therapeutic aromatherapy and therapeutic reflexology;

'intern' means a person registered as such in terms of section 1 9A;

'manipulative professions board' means the professional board for the professions of chiropractic and osteopathy;

'massage therapist' means a person registered as such under this Act;"

h. the substitution in the definition of "medical practitioner" for the expression "Medical, Dental and Supplementary Health Services Professions Act," of the expression "Health Professions Act,";

i. by the insertion after the definition of "Minister" of the following definitions:

"naturopath" means a person registered as such under this Act;

'osteopath' means a person registered as such under this Act;

'phytotherapist' means a person registered as such under this Act"'

j. by the deletion of the definition of "profession";

k. by the substitution in the definition of "professional board" for the expression "10A(3)" of the expression "10A";

l. by the substitution the definition of "regulation" for the expression "section 38" of the expression "this Acts;

m. by the insertion after the definition of "regulation" of the following definitions:

"scheduled substance" means a scheduled substance as defined in section 1 of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965);

'rule' means any rule made under this Act;

'student-intern' means a person registered as such in terms of section 19A;

'therapeutic aromatherapist' means a person registered as such under this Act;

'therapeutic reflexologist' means a person registered as such under this Act;";

n. by the substitution for the definition of "this Act" of the following definition:

"this Act' includes the regulations [.,] rules, and any proclamation or order issued or made under this Act;";

o. by the insertion after the definition of "this Act" of the following definitions;

"unprofessional conduct' means improper, disgraceful, dishonourable or unworthy conduct or conduct which, when regard is had to the profession of a person who is registered in terms of this Act, is improper or disgraceful or dishonourable or unworthy;

'vice-chairperson' means the vice-chairperson of the councils.

#### **Substitution of heading of Chapter 1 of Act 63 of 1982, as amended by section 2 of Act 63 of 1993 and section 3 of Act 40 of 1995**

2. The following heading is hereby substituted for the heading of Chapter 1 of the principal Act:

"THE [CHIROPRACTORS, HOMEOPATHS AND] ALLIED HEALTH [SERVICE] PROFESSIONS COUNCIL OF SOUTH AFRICA: ESTABLISHMENT, OBJECTS AND FUNCTIONS".

#### **Substitution of section 2 of Act 63 of 1982, as amended by section 3 of Act 63 of 1993 and section 3 of Act 40 of 1995**

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

##### **"Establishment of Allied Health Professions Council of South Africa**

2. (1) There is hereby established a juristic person to be known as the **[Chiropractors, Homeopath and] Allied Health [service] Professions [Interim] Council of South Africa** and the first meeting shall be convened by the **[Director-General]** Registrar.

(2) the head office of the council shall be situated in Pretoria."

#### **Substitution of section 3 of Act 63 of 1982, as amended by section 4 of Act 40 of 1995 and section 1 of Act 91 of 1997**

4. The following section is hereby substituted for section 3 of the principal Act:

##### **"Objects of the council -**

3. The objects of the council shall be -

(a) to assist in the promotion and protection of the health of the population of the Republic;

(aA) to govern, administer and set policy relating to the professions registered with the Council;

(b) to control the practice of the professions and to investigate in accordance with the provisions of this Act complaints relating to the affairs of practitioners and students;

(c) to control the registration of persons in respect of any profession and to set standards for the training of intending practitioners;

(d) to advise the Minister on any matter falling within the scope of the Act as it relates [relating] to the professions registered with the council;

**[(e) to make recommendations to the Minister on the constitution of a new council within a period not exceeding 36 months calculated as from the date of commencement of the**

**Chiropractors, Homeopaths and Allied Health Service Professions Amendment Act, 1995;  
and]**

(f) to advise the Minister on the amendment or adaptation of this Act so as to place greater emphasis on professional practice, democracy, transparency, equity, accessibility and community involvement[.]; and

(g) to communicate to the Minister information on matters of public importance acquired by the council in the course of the performance of its functions under this Act."

**Substitution of section 4 of Act 63 of 1982, as amended by section 2 of Act 10 of 1990, section 4 of Act 63 of 1993 and section 5 of Act 40 of 1995**

5. The following section is hereby substituted for section 4 of the principal Act:

**"General powers of the council -**

4. (1) The council may-

(a) publish the contents of the registers;

(b) make extracts from the registers upon payment of the prescribed fees;

(c) in **[accordance with the provisions of]** such circumstances as may be prescribed. or where otherwise authorised by this Act, cause any name to be added to the register or to be removed from the register or, upon payment of the prescribed fees, cause any such name to be restored thereto;

(d) in consultation with the relevant professional board appoint examiners and moderators, conduct examinations and award certificates, and charge the prescribed fees in respect of such examinations and the issue of such certificates;

(e) acquire, hire or dispose of property, borrow money against security of the assets of the council, accept any donation or accept and administer any trust;

(eA) consult with the relevant professional board on matters pertaining to a registered profession;

(f) consider any matter affecting the professions and make representations or take such action in connection therewith as the council may deem necessary;

(g) conduct or arrange courses for the continuing professional development **[supplementary training]** of practitioners **[and render financial assistance in respect of such courses];**

(gA) approve any clinic established by any practitioner or group of practitioners or university or technikon or other training institution after consultation with the relevant professional board;

(h) perform such other functions as may be prescribed, and

generally do all such things as it may deem necessary or expedient for the purpose of achieving the objects of this Act."

**Substitution of section 5 of Act 63 of 1982, as amended by section 6 of Act 40 of 1995 and section 2 of Act 91 of 1997**

6. The following section is substituted for section 5 of the principal Act:

**"Constitution of council --**

5. (1) The council shall consist of the following members namely--

(a) ten persons elected in the prescribed manner -

i. one person who is registered in terms of the Act as a ayurveda practitioner and who has been elected in the prescribed manner by the ayurveda and chinese medicine professional

board from amongst the members of such professional board. This person shall serve on the council and on the professional board concerned;

- ii. one person who is registered in terms of the Act as a practitioner of chinese medicine and acupuncture and who has been elected in the prescribed manner by the ayurveda and chinese medicine professional board from amongst the members of such professional board to serve on the council. This person shall serve on the council and on the professional board concerned;
- iii. one person who is registered in terms of the Act as a chiropractor and who has been elected in the prescribed manner by the manipulative professions board from amongst the members of such professional board to serve on the council. This person shall serve on the council and on the professional board concerned;
- iv. one person who is registered in terms of the Act as a homeopath and who has been elected in the prescribed manner by the complementary professions board from amongst the members of such professional board to serve on the council. This person shall serve on the council and on the professional board concerned;
- v. one person who is registered in terms of the Act as a massage therapist and who has been elected in the prescribed manner by the integrated health professions board from amongst the members of such professional board to serve on the council. This person shall serve on the council and on the professional board concerned;
- vi. one person who is registered in terms of the Act as a naturopath and who has been elected in the prescribed manner by the complementary professions board from amongst the members of such professional board to serve on the council. This person shall serve on the council and on the professional board concerned;
- vii. one person who is registered in terms of the Act as an osteopath and who has been elected in the prescribed manner by the manipulative professions board from amongst the members of such professional board to serve on the council. This person shall serve on the council and on the professional board concerned;
- viii. one person who is registered in terms of the Act as a phytotherapist and who has been elected in the prescribed manner by the complementary professions board from amongst the members of such professional board to serve on the council. This person shall serve on the council and on the professional board concerned;
- ix. one person who is registered in terms of the Act as a therapeutic aromatherapist and who has been elected in the prescribed manner by the integrated health professions board from amongst the members of such professional board to serve on the council. This person shall serve on the council and on the professional board concerned; and
- x. one person who is registered in terms of the Act as a therapeutic reflexologist and who has been elected in the prescribed manner by the integrated health professions board from amongst the members of such professional board to serve on the council. This person shall serve on the council and on the professional board concerned;

(b) six persons appointed by the Minister--

- i. one person representing the Department of Health;
- ii. one person appointed on account of his or her knowledge of the law;
- iii. one community representative to serve on the council and the ayurveda and chinese medicine professional board;
- iv. one community representative to serve on the council and the complementary professions board;
- v. one community representative to serve on the council and the integrated health professions board; and
- vi. one community representative to serve on the council and the manipulative professions board.

(2) The Minister shall appoint the community representatives referred to in subsection (1)(b)(iii) to (vi) after the registrar has obtained nominations in the prescribed manner.

(3) After the Minister appointed the community representatives referred to in subsection (1)(b)(iii) to (vi), the

Minister shall inform the registrar in writing of the names of such community representatives.

(4) The community representatives referred to in subsection (1)(b)(iii) to (vi) should be persons who are not registered under this Act and who have expertise in the fields of health, education and welfare. Each of the community representatives appointed to the council by the Minister shall also serve as the community representative on one of the professional boards established in terms of this Act.

(5) The names of the members of the council and the date of commencement of their period of office shall be published by the Registrar in the *Gazette* as soon as possible after the constitution of the council.

(6) Subject to the provisions of section 6, a member of the council shall hold office for a period of five years, but shall be eligible for re-election for one more term.

(7) Not less than six months prior to the date of expiry of the term of office of the members of the council, the persons and bodies referred to in subsection (1), except the Minister, shall inform the registrar in writing of the names of the persons to be designated or appointed by them in terms of that subsection.

(8) As soon as possible after the process referred to in subsection (7), the Minister shall inform the registrar of the names of the persons appointed by the Minister in terms of subsection (1)(b).

(9) If any of the persons or bodies referred to in subsection (1), except the Minister, fails to make a designation or an appointment or to inform the registrar in terms of subsection (3) of the names of the persons to be designated or appointed by them, the Minister shall make the necessary designation or appointment, and any designation or appointment so made by the Minister shall be deemed to have been properly made in terms of the appropriate paragraph in subsection (1).

#### **Amendment of section 6 of Act 63 of 1982, as amended by section 7 of Act 40 of 1995**

7. Section 6 of the principal Act is hereby amended -

a. by the substitution for its heading with the following heading:

**"Disqualification for appointment as member, vacation of office by members and filling of vacancies of the council"**

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

"(b) who in terms of this Act or the **[Medical, Dental and Supplementary]** Health **[service]** Professions Act, 1974 (Act No. 56 of 1974), is disqualified from practising his or her profession;"

c. by the substitution for subsection (2) of the following subsection:

"(2) A member of the council shall vacate his or her office if-

(a) he or she becomes subject to any disqualification contemplated in subsection (1);

(b) he or she ceases to hold any qualification necessary for his or her appointment;

(c) he or she has been absent from more than two consecutive ordinary meetings of the council without the council's leave;

(d) he or she was appointed by the Minister and tenders his or her resignation in writing to the Minister and the Minister accepts his or her resignation;

(dA) he or she was elected by a professional board and tenders his or her resignation to the council and the council accepts his or her resignation;

(e) he or she becomes a patient or **[President's]** State patient as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973);

(f) he or she is convicted in the Republic or elsewhere of an offence for which he or she is sentenced to imprisonment without the option of a fine; **[or]**

(g) the Minister in the public interest terminates his or her membership; or

(h) 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 councils

d. by the substitution for subsection (3) of the following subsection:

**"(3) [Any vacancy on the council arising from a circumstances referred to in subsection (2) or caused by the death of a member shall be filled by appointment by the Minister of a person in the vacancy, and every member appointed in terms of this subsection shall hold office for the unexpired portion of the period of office of the member whose office became vacant] Vacancies that occur on the council during the five year term of office of the council shall be filled for the remaining period of the term of office of the current council as prescribed."**

#### **Substitution of section 7 of Act 63 of 1982**

8. The following section is hereby substituted for section 7 of the principal Act:

##### **"Office-bearers**

7. (1) The council shall in the prescribed manner elect a **[chairman]** chairperson and **[vice-chairman]** a vice-chairperson.

(2) The **[chairman]** chairperson or **[vice-chairman]** vice chairperson of the council may vacate his or her office as **[chairman]** chairperson or **[ vice-chairman]** vice chairperson without terminating his or her membership of the council.

(3) The chairperson and vice chairperson shall be elected on an annual basis.

(4) The chairperson and vice chairperson shall be eligible for re election at such an election: Provided that the chairperson or vice-chairperson may be no elected for one further term of once."

#### **Amendment of section 8 of Act 63 of 1982**

9. Section 8 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph:

"(a) The **[chairman]** chairperson may at any time convene a special meeting of the council, to be held on such date and at such place as he or she may determine, and he or she shall, upon the written request of the Minister or a written request signed by a majority of the members of the council, convene a special meeting, to be held within 30 days after the date of receipt by him or her of the request, on such date and at such place as he or she may determine."

#### **Substitution of section 10A of Act 63 of 1982**

10. The following section is hereby substituted for section 10A of the principal Act:

##### **"Establishment of professional boards**

**10A.** (1) The Minister may, on the recommendation of the council and by notice in the Gazette, establish a professional board with regard to any profession in respect of which a register is kept in terms of this Act, or with regard to two or more such professions.

(2) The Minister may, on the recommendation of the council, change the professional boards with regard to the professions for which the boards have been established, and establish other professional boards.

(3) Before making a recommendation as contemplated in subsection (2), the council shall consult with any body which is or persons who are in the opinion of the council representative of the majority of persons to be affected by such change or establishment.

(4) Four professional boards are established in terms of this Act -

- i. ayurveda and chinese medicine professional board which shall consist of 8 members;
- ii. complementary professions board which shall consist of 8 members;
- iii. integrated health professions board which shall consist of 8 members; and
- iv. manipulative professions board which shall consist of 8 members.

(5) The Minister may, on the recommendation of the council, make regulations relating to the constitution, functions, functioning and term of office of a professional board.

(6) Regulations relating to the constitution, functions and functioning of a professional board shall at least provide for-

- a. the majority of the members of a professional board to be elected by the persons registered in the profession involved;
- b. one person representing the community who is not registered in terms of this Act, to be appointed to each professional board by the Minister and such person to also serve on the council;
- c. the establishment by a professional board of such committees as it may deem necessary, each consisting of so many persons appointed by the professional board as such professional board may determine, but including at least one member of the board who shall be the chairperson of such committee;
- d. the procedure to be followed for the appointment and election, as the case may be, of members of a professional board;
- e. the election of a chairperson and vice-chairperson by the members of a professional board and the powers and functions of such a chairperson and vice chairperson; and
- f. the term of office of the members of a professional board.

(7) A professional board established under this section shall, in addition to the performance of any function prescribed under subsection (5), report to the council on any matter affecting the profession in respect of which such professional board has been established and on any matter referred to it by the council.

(8) When a report referred to in subsection (7) is considered by the council, the chairperson of the professional board concerned shall be present at the meeting at which such report is considered by the council, shall have the right to address the council concerning any matter dealt with in such report, shall have the right to vote if any vote is taken at such meeting in respect of such matter and shall have all the rights and duties of a member of the council attending such meeting.

(9) Any professional board established under this section may make representations to the council for the making, amendment or withdrawal of any regulation or rule which shall apply or applies to such professional board or the profession in respect of which such professional board was established.

#### **Insertions of section 10B, 10C and 10D in Act 63 of 1982**

11. The following sections are hereby inserted after section 10A of the principal Act:

#### **"Disqualification for appointment as member' vacation of office by members and filling of vacancies for professional boards**

**10B. (1) No person -**

- a. who is an unrehabilitated insolvent;
- b. who in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), is disqualified from practising his or her profession;
- c. who is not a South African citizen permanently resident in the Republic; shall be a member of a professional board.

(2) A member of a professional board shall vacate his or her office if -

- a. he or she becomes subject to any disqualification contemplated in subsection (1);
- b. he or she ceases to hold any qualification necessary for his or her appointment;
- c. he or she has now been absent from more than two consecutive ordinary meetings of the



professional board concerned without such professional board's leave;

- d. he or she tenders his or her resignation in writing to the chairperson of the professional board;
- e. he or she becomes a patient or State patient as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973);
- f. he or she is convicted in the Republic or elsewhere of an offence wherefor he or she is sentenced to imprisonment without the option of a fine; or
- g. 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 professional board.

(3) Every vacancy on a professional board arising from a circumstance referred to in subsection (2) and every vacancy caused by the death of a member, shall be filled as prescribed by regulation and every member appointed in terms of this subsection shall hold office for the unexpired portion of the period for which the vacating member was appointed.

### **Object of professional boards**

**10C (1) The objects of a professional board are -**

- a. to advise the council on any matter falling within the scope of this Act as it relates to any profession falling within the ambit of the professional board in order to support the universal norms and values of the profession, with emphasis on professional practice, democracy, transparency, equity, accessibility and community involvement;
- b. to consult and liaise with other professional boards on matters affecting the professional board;
- c. to advise the council in respect of all matters affecting the training of persons in, and the manner of the exercise of the practices pursued in connection with, any profession falling within the ambit of the professional board;
- d. to promote liaison in the field of education and training contemplated in paragraph (c) and to promote the standards of such training in the Republic and elsewhere;
- e. to communicate to the council information on matters of public importance acquired by the professional board in the course of the performance of its functions under this Act;
- f. to maintain and enhance the dignity of the profession and the integrity of the persons practising the profession; and
- g. to guide the professions and to protect the public.

### **General powers of a professional board -**

**10D (1) A professional board may-**

- a. in such circumstances as may be prescribed, recommend to the council that any name be removed from a register or, upon payment of the prescribed fee, that such name be restored thereto, or that a registered person be suspended from practising his or her profession pending the institution of a formal inquiry in terms of section 22;
- b. recommend to the council the appointment of examiners and moderators;
- c. conduct examinations and grant certificates, and charge such fees in respect of such examinations or certificates as may be prescribed;
- d. subject to prescribed conditions, recommend to the council the approval of training schools;
- e. report to the council on any matter affecting the profession in respect of which such professional board has been established and on any matter referred to it by the council: Provided that when such a report is considered by the council, the chairperson of the professional board concerned be present at the meeting at which such report is considered by the council, and shall have the right to address the council concerning any matter dealt with in such report, shall have the right to vote if any vote is taken at such meeting in respect of such matter and shall have all the rights and duties of a member of the council attending such meeting;
- f. make representations to, or by the mediation of, the council for the making, amendment or withdrawal of any regulation or rule which shall apply or applies to such professional board or the profession in respect of which such professional board was established; and
- g. perform such other function as may be prescribed, and generally, do all such things as the professional board deems necessary or expedient to achieve the objects of this Act in

relation to a profession falling within the ambit of the professional board.

(2) The council shall not be divested of any power so delegated and may amend or set aside any decision of any professional board made in the exercise of any such power.

#### **Amendment of section 11 of Act 63 of 1982**

12. Section 11 of the principal Act is hereby amended by -

a. the substitution for subsection (2) of the following subsection:

"(2) The registrar shall act as secretary to the council ~~and of each professional board~~ and shall in that capacity perform, in addition to such functions as may otherwise be assigned to him by or under this Act, such functions as may from time to time be assigned to him by the council."; and

b. the insertion of the following subsection after subsection (2):

"(3) The registrar and staff members shall not be persons registered in professions regulated by this Act.".

#### **Amendment of section 12 of Act 63 of 1982**

13. Section 12 of the principal Act is hereby amended by the addition of the following subsections after subsection (2):

"(3) The council may, where it deems necessary, make financial grants from its own funds to assist in the financial operation of a professional board if it is convinced that such a professional board cannot be adequately financed by its registered practitioners.

(4) All professional boards shall submit audited income and expenditure statements to the council on an annual basis.".

#### **Amendment of section 15 of Act 63 of 1982, as amended by section 4 of Act 108 of 1985 and section 6 of Act 63 of 1993**

14. Section 15 of the principal Act is amended by -

a. the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

"Any person who desires to be registered as a **[chiropractor, homeopath or]** practitioner of **[a]** an allied health **[service]** profession in terms of this Act, shall in the prescribed manner apply to the council for registration, and such application shall be accompanied by-";

b. the substitution for subsection (3) of the following subsections:

"(3) **[If the council aver consideration of]** ~~The council may request the relevant professional board to consider~~ an application in terms of subsection (1) and ~~If~~ after such investigation and enquiries as **[it]** the relevant professional board may deem necessary, it is satisfied that the applicant concerned may be registered in terms of this Act, **[it]** such professional board shall **[approve the application]** ~~recommend to council the approval or disapproval of such an application.~~

(3A) ~~If the council is satisfied that an applicant may be registered in terms of the Act~~, it shall approve the application and the registrar shall thereupon register the applicant by -

- a. issuing an appropriate certificate of registration to him; and
- b. entering the prescribed particulars in respect of him in the appropriate register.";

c. the substitution for subsection (5) of the following subsection:

"(5) Any person who is registered or deemed to be registered in terms of this Act shall, in the practice of his ~~or her~~ profession, only state particulars of those degrees, diplomas or certificates entered in the appropriate register against his or her name ~~and/or; any other qualification recommended by the professional board and approved by the council.~~".

**Amendment of section 16 of Act 63 of 1982, as amended by section 5 of Act 108 of 1985 and section 7 of Act 63 of 1993**

15. The following section is hereby substituted for section 16 of the principal Act:

**"Allied health [service] professions**

16.(1) The Minister may, at the request of the council, by notice in the Gazette the provisions of this Act to be applicable to any profession which has as its object the promotion of health, the treatment, prevention or relief of physical defects, illnesses or deficiencies in man, excluding [the profession of a chiropractor or homeopath or] any profession referred to in subsection (1A) or any profession to which the provisions of the Pharmacy Act, 1974 (Act No. 53 of 1974), the [Medical, Dental and Supplementary] Health [Service] Professions Act, 1974 (Act No. 56 of 1974), the Nursing Act, 1978 (Act No. 50 of 1978), or the Dental Technicians Act, 1979 (Act No. 19 of 1979), apply.

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

- a. the professions of ayurveda, chiropractic and homeopathy;
- b. the professions of naturopathy osteopathy and phytotherapy for which professional registers shall be re-established with effect from the date of implementation of this Act; and (
- c. the professions of Chinese medicine and acupuncture massage therapy, therapeutic aromatherapy and therapeutic reflexology for which professional registers shall be established with effect from the date of implementation of the Chiropractors, Homeopaths and Allied Health Service Professions Amendment Act, 2000.

(2) The Minister may, on the recommendation of the council, by regulation define the scope of any allied health [service] profession by specifying the acts which shall for the purposes of the application of this Act be deemed to be acts pertaining to that profession: Provided that such regulation shall not be made unless the professional board concerned which has been established in terms of section 10A [(3)] in respect of any allied health [service] profession and may in the opinion of the Minister be affected by such regulation, has been given an opportunity of submitting, through the council, representations as to the definition of the scope of the profession concerned: Provided—further that if there is a difference of opinion between the council and such professional board as to the definition of the scope of the profession concerned, the council shall mention such fact in its recommendation."

(3) Subject to the provisions of the Medicines and Related Substances Control Act, 1965 and subject to the approval of the Medicines Control Council, the Minister may, on the recommendation of the council, by regulation define the access to and availability of medicines relative to the professions registered in terms of this Act.

(4) (a) Subject to the provisions of the Medicines and Related Substances Control Act, 1965, every practitioner whose name has been entered in the register of dispensing practitioners contemplated in subsection (b) shall on such conditions as the council may, after consultation with the relevant professional board, determine in writing in general or in a particular case, be entitled to personally compound or dispense medicine prescribed by himself or herself or by any other practitioner with whom he or she is in partnership or with whom he or she is associated as principal or assistant or locum tenens, for use by a patient under treatment of such practitioner or of such other practitioner: Provided that he or she shall not be entitled to keep an open shop or pharmacy

(b) The registrar shall keep a register of practitioners who have the right in terms of this section to dispense schedule substances in which he or she shall enter, at the direction of the council the name and such other particulars as the council may determine of a practitioner-

- i. who within three months after the amendment of the Chiropractors, Homeopaths and Allied Health Service Professions Amendment Act, 2000, submit proof to the satisfaction of the registrar that at such commencement he or she compounded or dispensed medicine as contemplated in subsection (4)(a) in the practice of his or her profession; or
- ii. who informs the registrar in the prescribed manner of his or her intention to compound or dispense medicine in the practice of his or her profession as contemplated in subsection (4)(a)

(5) The council may, after an investigation conducted by the council into the activities of a practitioner with regard to the compounding or dispensing of medicine and in consultation with the relevant professional board, direct that the name of any person be removed from the register contemplated in subsection 4(b), or prohibit him or her for a specific period from making use of the right contemplated in subsection (4).

(6) The council may determine fees by regulation to be paid for the entering or re entering of a name in the register contemplated in subsection (4)(b) and (5)."

**Amendment of section 16A of Act 63 of 1982, as amended by section 6 of Act 108 of 1985 and section 93 of Act 88 of 1996**

16. The following section is hereby substituted for section 16A of the principal Act:

**"Control over training**

**16A** (1) Notwithstanding anything to the contrary in any law contained, no person or educational institution, **[excluding a university or technikon established by or under an Act of Parliament]**, shall offer or provide any education or training **[which is intended to qualify any person for the practising of any]** in any allied health profession to which the provisions of this Act apply, whether or not such training is intended to lead to registration under this Act in the profession concerned, unless such education or training has been considered and recommended by the relevant professional board and thereafter approved by the council.

(2) Any person or institution wishing to offer or to provide the education or training referred to in subsection (1) shall, before offering or providing such education or training, apply to the council in writing for its approval of such education or training and shall furnish particulars regarding such education or training as the council may require. The registrar shall submit such application to the professional board concerned for consideration of the application and to make a recommendation to the council thereon.

(3) The council may, after consultation with the professional board referred to in subsection (2), grant or refuse any application made in terms of subsection (2) and may, if it has granted such application, prescribe such conditions and requirements as it may deem fit subject to which the education and training in question may be provided.

(4) .....

(4A) Any decision made by the council in terms of subsection (3) shall be final.

(5) Any person who contravenes or fails to comply with any provision of this section, or any condition or requirement prescribed thereunder, shall be guilty of an offence and liable on conviction to a fine as prescribed **[not exceeding two thousand rand]** or to imprisonment for a period **[not exceeding six months]** or to both such fine and such imprisonment.

(6) The council may appoint a person to attend at the examinations in any allied health profession regulated in terms of this Act, conducted by any examining authority approved by the council on recommendation of the professional board in terms of subsection (1)."

**Amendment of section 16B of Act 63 of 1982, as amended by section 6 of Act 108 of 1985 and section 8 of Act 63 of 1993**

17. The following section is hereby substituted for section 16B of the principal Act:

**"Prescribing of qualifications**

**16B** (1) Subject to the provisions of subsection (2), the Minister may from time to time, on the recommendation of the council after consultation with the relevant professional board, prescribe the qualifications obtained by virtue of examinations conducted by a university, technikon or other examining authority which, when held singly or conjointly with any other qualification, **[shall]** may entitle any holder thereof to registration under this Act as a **[chiropractor, homeopath or]** practitioner of an allied health **[service]** profession, **[as the case may be]** 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 so prescribed.

(2) No qualification obtained by virtue of examinations conducted by a university or other examining authority situated outside the Republic shall be prescribed under this section unless--

- a. such qualification entitles the holder thereof to practise as a **[chiropractor, homeopath or]** practitioner of an allied health **[service]** profession, **[as the case may be,]** in the country or state in which such university or other examining authority is situated; and

- b. the council is satisfied that possession of such qualification indicates a standard of professional training not lower than that prescribed in respect of the training of practitioners of **[chiropractors, homeopaths, or]** allied health **[service]** professions within the Republic."

**Amendment of section 16C of Act 63 of 1982, as amended by section 6 of Act 108 of 1985, section 3 of Act 10 of 1990, section 9 of Act 63 of 1993 and section 8 of Act 40 of 1995**

18. Section 16C is hereby amended by -

- a. The substitution for subsections (1) and (2) of the following subsections:

"(1) The council may accept a qualification other than a qualification referred to in section 16B, for the purpose of registration under this subsection, if such qualification, in the opinion of the council, after consultation with the relevant professional board. indicates a satisfactory standard of professional education, and may[, ] subject to the provisions of subsection **[s]** (2) **[and]** (3)1 and section 15(1) and (2), register any person as a **[chiropractor, homeopath or]** practitioner of an allied health **[service]** profession who possesses such qualification and who, in the opinion of the council, possesses sufficient professional knowledge and ability and is proficient in at least one of the official languages of the Republic.

(2) A person referred to in subsection (1), if he or she has been granted temporary registration, may only practise as a **[chiropractor, homeopath or]** practitioner of an allied health **[service]** profession **[as the case may be]** as prescribed -

- a. for such period or periods as the council may determine **[and before the expiration of which he shall satisfy the council that**

- i. ....  
ii. **he is conversant with the laws of the Republic relating to chiropractic, homeopathy or the practice of an allied health service profession and the practising of The profession of a chiropractor or homeopath or an allied health profession, as the case may be**; and

- b. subject to such conditions as the council may determine."

- b. by the substitution for subsection (5) of the following subsection:

"(5) If at the expiration of the period referred to in subsection (2)(a), the council is satisfied that a person registered in terms of subsection (1) complies with the requirements of subsection (2)(a)~~(ii)~~, it shall exempt such person from all restrictions imposed in respect of him or her under this section, and if the council is not so satisfied, it shall remove the name of such person from the registers.

**Amendment of section 16D of Act 63 of 1982, as amended by section 6 of Act 108 of 1985.**

19. Section 16D of the principal Act is amended by the substitution in subsection (2) for the words "not exceeding R100" of the words "As prescribed by the Minister from time to time."

**Amendment of section 16E of Act 63 of 1982, as amended by section 6 of Act 108 of 1985 and section 10 of Act 63 of 1993.**

20. Section 16E of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) For the purposes of promoting education or training in **[chiropractic, homeopathy or]** any allied health **[service]** profession registered in terms of this Act. the council may[, ] after consultation with the professional board concerned and notwithstanding the provisions of this Act, register any person not permanently resident within the Republic in the profession in which he or she gives education or training, for such period as the council may determine."

**Amendment of section 18 of Act 63 of 1982, as amended by section 7 of Act 108 of 1985 and section 12 of Act 63 of 1993.**

21. Section 18 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Any person who **[desires to be registered]** enrolls as a student in **[chiropractic, homeopathy or]** an allied health **[service]** profession shall in writing apply **[therefor]** to the council for registration as a student, and such application shall be accompanied by the prescribed particulars and registration fee."

#### Insertion of section 19A in Act 63 of 1982

22. The following section is hereby inserted after section 19 of the principal Act:

##### "Registration of interns -

19A (1) Any person who graduates within or outside the Republic after the date of implementation of this Act in a profession that has been established in terms of the Act and who wishes to practise such profession in the Republic, shall apply to the council for registration in the prescribed manner.

(2) A person referred to in subsection (1) may, on the recommendation of the professional board concerned, be registered as an intern and on such registration may be required to complete a prescribed internship programme prior to registration as a practitioner of the profession concerned.

(3) The council may, after liaison with a professional board, register a person who has not yet graduated in a profession that has been established in terms of the Act as a student intern and may permit such student to commence with an internship program as prescribed.

(4) A person referred to in subsections (2) and (3) shall not be registered by the council as a practitioner of the profession concerned prior to graduation and completion of the prescribed internship.

(5) The duration, requirements, conditions and rules pertaining to such internship shall be as prescribed.

#### Amendment of section 21 of Act 63 of 1982, as amended by section 10 of Act 108 of 1985, section 13 of Act 63 of 1993

23. Section 21 is hereby amended by--

- a. the substitution in paragraph (f) in subsection (1) for the word "fraud." of the word "fraud; or";
- b. insertion in subsection (1) of the following paragraph after paragraph (f):

"(g) has become mentally or physically impaired and is unable to practise the profession for which he or she is registered in terms of this Act.";

- c. the substitution for subsection (5) of the following subsection:

"(5) The council shall not under subsection (1) instruct that the name of any person be removed from any register kept under section **[15(3)(b)]** 14 unless the council has consulted with the professional board **[(if any)]** established in respect of the profession concerned."

#### Amendment of section 23 of Act 63 of 1982 as amended by section 11 of Act 108 of 1985 and section 14 of Act 63 of 1993

24. Section 23 is hereby amended by--

- a. the substitution for subsection (1) of the following subsections:

"(1) The council may, in respect of **[chiropractors or homeopaths, and a professional board may in the case of a practitioner practising an associated health service profession in respect of which such professional board has been established]** a practitioner registered in any allied health profession in terms of the Act, institute an inquiry into any written complaint, charge or allegation of **[improper or disgraceful]** unprofessional conduct against **[any]** such practitioner

(1A) The council may refer allegations of such conduct referred to in subsection (1) to the relevant professional board and delegate to such board the right to investigate such complaint and to hold

an inquiry in the prescribed manner.

(1B) When requested to hold an inquiry, the professional board concerned may seek information from any person, including the practitioner against whom the complaint, charge or alienation was lodged and shall have the right to investigate the matter fully before holding an inquiry.

(1C) The council or the professional board may on finding the practitioner concerned guilty of such conduct, in the case of the council, impose any of the penalties referred to in section 24(1) or, in the case of a professional board, recommend the imposition of any such penalty in terms of subsection (3): Provided that in the case of a complaint, charge or alienation which forms or is likely to form the subject of criminal proceedings, the council or the professional board concerned, as the case may be, may postpone the holding of an inquiry until those proceedings have been disposed of."

b. by the substitution in subsection (3), wherever it appears for the words "improper or disgraceful" of the word "unprofessional";

c. by the substitution for paragraph (a) of subsection (6) of the following paragraph:

"(a) to the **[chairman]** chairperson of the council shall be deemed to be a reference to the **[chairman]** chairperson of such professional board;"

### **Amendment of section 24 of Act 63 of 1982 as amended by section 12 of Act 108 of 1985 and section 15 of Act 63 of 1993**

25. Section 24 of the principal Act is hereby amended -

a. by the substitution in subsection (1), wherever it appears in the introduction sentence for the words "improper or disgraceful" of the word "unprofessional";

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

"(d) a fine **[not exceeding R10 000]** as prescribed by the Minister from time to time: or";

c. by the substitution in subsection (2) for the word "chairman" of the word "chairperson";

d. by the substitution for paragraph (a) of subsection (3) of the following paragraph:

"(a) Where the **[The]** council or any committee of the council, **[where any such committee]** or relevant professional board holds an inquiry under powers delegated to it by the council, it may for the purposes of any such inquiry take evidence and may, under the hand of the **[chairman]** chairperson of the council or the **[chairman]** chairperson of any such committee or the secretary of the council, summon any witness and require the production of any book, record, document or article, and may through the **[chairman]** chairperson concerned administer the oath to or accept an affirmation from any witness, and may examine any book, record, document or article which a witness has been so required to produced.

e. by the substitution in subparagraph (ii) of paragraph (c) of subsection (3) for the word "chairman" of the word "chairperson";

f. by the substitution for the words following subparagraph (iv) of paragraph (c) of subsection (3) of the following words:

"shall be guilty of an offence and on conviction liable to a fine as prescribed by the Minister from time to time, or to imprisonment **[for a period not exceeding three month.]:** Provided that a person so summoned shall be entitled to all the privileges to which a witness subpoenaed to give evidence before a provincial division of the **[Supreme]** High Court is entitled."

g. by the substitution for subsection (4) of the following subsection:

"(4) The **[chairman]** chairperson of the council, where the council itself or a professional board holds any such inquiry, or the **[chairman]** chairperson of any committee of the council holding any such inquiry, may appoint a person with adequate experience in the administration of justice as an assessor at the inquiry to advise the council or the committee concerned, as the case may be, on matters of law, procedure or evidence."

- h. the insertion of the word "and" after the end of paragraph (a) of subsection (7);
- i. by the substitution in subsection (9) for the words "not exceeding R2 500" of the words "as prescribed by the Minister from time to time" and for the words "improper or disgraceful" of the word "unprofessional".

**Amendment of section 29 of Act 63 of 1982 as amended by section 16 of Act 108 of 1985 and section 18 of Act 63 of 1993**

26. Section 29 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) Any rule contemplated in paragraph (a) referring to an allied health **[service]** profession shall only be made after consultation with the professional board concerned **[(if any)]**."

**Amendment of section 30 of Act 63 of 1982 as amended by section 17 of Act 108 of 1985**

27. Section 30 of the principal Act is hereby amended -

- a. by the substitution for the words following paragraph (b) of subsection (1) of the following words:

"the council shall cause the matter to be investigated and may, if it deems it necessary, refer it to the professional board concerned to hold an inquiry in respect of that practitioner *mutatis mutandis* in accordance with the provisions of section 24 and the regulations made under section 38(1)~~[(q)](o)~~;

- b. by the substitution for the words preceding paragraph (a) of subsection (2) of the following subsection:

"(2) If the council or professional board concerned, after holding an inquiry under subsection (1), finds that any circumstance referred to in that subsection exists in respect of the practitioner concerned, **[it]** the council may by order-"; and

- c. the substitution in subsection (6) for the words "not exceeding R100" of the words "as prescribed by the Minister from time to time."

**Amendment of section 31 of Act 63 of 1982 as amended by section 18 of Act 108 of 1985 and section 19 of Act 63 of 1993**

28. The following is hereby substituted for section 31 of the principal Act:

**"Offences by unregistered persons, and penalties**

**31.** (1) Subject to the provisions of subsection (2) of this section and section 41, any person who is not registered as a practitioner in a particular profession and who -

- a. for gain practises any such profession;
- b. for gain performs any act specially pertaining to any such profession;
- c. pretends, or by any means whatsoever holds himself out, to be any such practitioner, whether or not purporting to be registered; or
- d. uses the title of acupuncturist. ayurvedic practitioner. chiropractor, [herbalist], homeopath, massage therapist. naturopath, osteopath, phytotherapist. therapeutic aromatherapist. therapeutic reflexologist or of any other profession registered in terms of this Act. or any other title or any name, description or symbol indicating, or calculated to lead persons to infer, that he holds the qualifications of **[a]** an acupuncturist. ayurveda practitioner, chiropractor, [herbalist], homeopath, massage therapist. naturopath, osteopath, phytotherapist. therapeutic aromatherapist therapeutic reflexologist or of an other profession registered in tempts of this Act.

shall be guilty of an offence and on conviction liable to a fine **[not exceeding R500]** prescribed by the Minister from time to time or to imprisonment **[for a period not exceeding six months]** or to both **[that]** such fine and **[that]** such imprisonment.";

(2) The provisions of subsection (1) shall not prohibit -

- a. any person exercising a profession to which the provisions of the Pharmacy Act, 1974 (Act No. 53 of 1974), the **[Medical, Dental and Supplementary]** Health **[Service]** Professions



Act, 1974 (Act No. 56 of 1974), the Nursing Act, 1978 (Act No. 50 of 1978), or the Dental Technicians Act, 1979 (Act No. 19 of 1979), apply, from performing any act pertaining to his or her profession, as contemplated in the appropriate Act, which may lawfully be performed by him;

a **[chiropractor or homeopath]** practitioner in any allied health profession performing any act pertaining to an allied health **[service]** profession, if such act is an act which also pertains to the profession of **[a chiropractor or homeopath, as the case may be]** any of the allied health professions.

(3) The council after a disciplinary inquiry was held in terms of Chapter 4 of this Act and if the practitioner who has been charged is found guilty of unprofessional conduct. may in addition to any penalty imposed by the council in terms of this section order that the cost to the council or the professional board of conducting such inquiry or such portion thereof as the council may determine shall be paid by the practitioner concerned.

(4) The imposition of a penalty shall have the effect of a civil judgement of the magistrate's court of the district in which the disciplinary inquiry took place."

**Amendment of section 32 of Act 63 of 1982 as amended by section 20 of Act 63 of 1993**

29. Section 32 of the principal Act is hereby amended -

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

"(1) A practitioner or a student who is not registered as a medical practitioner in terms of the Health Professions Act, 1974 (Act No. 56 of 1974) shall not--