



REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

GOVERNMENT GAZETTE

FOR THE REPUBLIC OF SOUTH AFRICA

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

R1,00 Prys • Price
R0,10 Plus 10% BTW • VAT
R1,10 Verkoopprys • Selling price
Buitelands **R1,40** Other countries
Posvry • Post free

Vol. 323

KAAPSTAD, 6 MEI 1992

No. 13960

CAPE TOWN, 6 MAY 1992

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1242.

6 Mei 1992

No. 1242.

6 May 1992

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 58 van 1992: Wysigingswet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensberoepes, 1992.

No. 58 of 1992: Medical, Dental and Supplementary Health Service Professions Amendment Act, 1992.

GENERAL EXPLANATORY NOTE:

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

_____ Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Medical, Dental and Supplementary Health Service Professions Act, 1974, so as to repeal or substitute certain obsolete expressions and references; to authorize the South African Medical and Dental Council to defer the commencement of a penalty imposed by a committee of the council; to abolish the control of the council over training at universities and technikons; to provide that medical practitioners, dentists and psychologists be classified in categories and for the registration of such categories; to provide for the removal of a registration obtained in error or through fraud; to empower the person presiding at a meeting of a committee to administer an oath; to empower the Minister to exempt certain juristic persons from the operation of certain provisions of this Act; and to do away with the prohibition of strikes by registered persons; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 26 April 1992.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 56 of 1974, as amended by section 1 of Act 33 of 1976, section 12 of Act 36 of 1977, section 1 of Act 52 of 1978, section 1 of Act 38
5 of 1982, section 1 of Act 58 of 1984 and section 24 of Act 94 of 1991

1. Section 1 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (hereinafter referred to as the principal Act), is hereby amended—

10 (a) by the substitution for the definition of “medicinal purposes” of the following definition:

15 “ ‘medicinal purposes’, in relation to a scheduled substance, means the purpose of treatment or prevention of a disease or some other definite curative or therapeutic purpose, but does not include the satisfaction or relief of a habit or a craving for the substance used or for any other scheduled substance except where the substance is administered or used in a hospital or similar institution maintained wholly or partly by the Government or a provincial administration **[or the Administration of South West Africa]**, or approved for that purpose by the Minister;”;

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- (b) by the substitution for the definition of "Minister" of the following definition:
 " 'Minister' means the Minister of National Health [and Welfare]"; and
- 5 (c) by the deletion of the definition of "Republic".

Amendment of section 3 of Act 56 of 1974

2. Section 3 of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

- 10 "(b) subject to the provisions of the Nursing Act, [1957 (Act No. 69 of 1957)] 1978 (Act No. 50 of 1978), the [Chiropractors Act, 1971 (Act No. 76 of 1971)] Associated Health Service Professions Act, 1982 (Act No. 63 of 1982), and the Pharmacy Act, 1974 (Act No. 53 of 1974), to control, and to exercise authority in respect of all matters affecting the training of persons in, and the manner of the exercise of the practices pursued in connection with, the diagnosis, treatment or prevention of physical or mental defects, illnesses or deficiencies in man;"
- 15

Amendment of section 5 of Act 56 of 1974, as amended by section 2 of Act 52 of 1978, section 2 of Act 58 of 1984 and section 1 of Act 79 of 1990

- 20 3. Section 5 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
 "(a) the Director-General: National Health and [Welfare] Population Development";
- 25 (b) by the substitution for paragraphs (f) and (g) of subsection (1) of the following paragraphs:
 "(f) one person designated by the South African Nursing Council [established by] referred to in section 2 of the Nursing Act, [1957 (Act No. 69 of 1957)] 1978 (Act No. 50 of 1978), who is a member of that council and is registered under that Act;
- 30 (g) one person designated by the South African Pharmacy [Board] Council referred to in section 2 of the Pharmacy Act, 1974 (Act No. 53 of 1974), who is a member of that [board] council and is registered under that Act as a pharmacist.";
- 35 (c) by the substitution for subsection (2) of the following subsection:
 "(2) The member referred to in subsection (1)(a) may designate an officer of the Department of National Health and [Welfare] Population Development who is a medical practitioner, to act in his stead as an alternate member of the council.";
- 40 (d) by the substitution in subsections (4) and (5) for the expression "South African Pharmacy Board" of the expression "South African Pharmacy Council".

45 Amendment of section 6 of Act 56 of 1974, as amended by section 46 of Act 97 of 1986

4. Section 6 of the principal Act is hereby amended by the substitution in subparagraph (iii) of paragraph (d) of subsection (1) for the expression "South African Pharmacy Board" of the expression "South African Pharmacy Council".

50

Amendment of section 10 of Act 56 of 1974, as amended by section 3 of Act 58 of 1984

5. Section 10 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:
- 55 "(1) There shall be an executive committee of the council consisting of

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the president, the vice-president, the Director-General: National Health and
[Welfare] Population Development (or, in his absence, the officer design-
 5 the council designated by the council, of whom not less than three shall be
 10 medical practitioners, one shall be a dentist and one shall be a member
 15 appointed under section 5(1)(b)(iv).”.

**Amendment of section 11 of Act 56 of 1974, as amended by section 3 of Act 52 of
 1978, section 4 of Act 58 of 1984 and section 2 of Act 79 of 1990**

6. Section 11 of the principal Act is hereby amended by the substitution in
 10 subsection (5) for the words preceding the proviso of the following words:
 “**[No]** A penalty imposed by any committee established in terms of
 subsection (1) or (3), other than a caution or a reprimand or a
 reprimand and a caution, shall be of force and effect **[until]** from the
 15 date on which the council has confirmed its imposition or from a later
date approved by the council on the written request of the person who
has been found guilty of misconduct by such a committee.”.

Amendment of section 16 of Act 56 of 1974

7. Section 16 of the principal Act is hereby amended by the substitution for
 subsection (1) of the following subsection:
 20 “(1) Notwithstanding anything to the contrary in any other law contained
 but subject to the provisions of the Nursing Act, **[1957 (Act No. 69 of 1957)]**
1978 (Act No. 50 of 1978), no person or educational institution, excluding
 25 a university or a technikon, may offer or provide any training having as its
 the provisions of this Act apply or for the carrying on of any other activity
 directed to the mental or physical examining of any person or to the
 diagnosis, treatment or prevention of any mental or physical defect, illness
 or deficiency in man, unless such training has been approved by the
 council.”.

30 **Amendment of section 17 of Act 56 of 1974, as amended by section 47 of Act 57
 of 1975 and section 2 of Act 33 of 1976**

8. Section 17 of the principal Act is hereby amended by the substitution in
 paragraph (b) of subsection (1) for the words preceding subparagraph (i) of the
 following words:
 35 “except in so far as it is authorized by the provisions of the Nursing
 Act, **[1957 (Act No. 69 of 1957)]** 1978 (Act No. 50 of 1978), the
[Chiropractors Act, 1971 (Act No. 76 of 1971)] Associated Health
 40 Service Professions Act, 1982 (Act No. 63 of 1982), the Pharmacy Act,
1974 (Act No. 53 of 1974), and sections 32, 33, 34 and 39 of this Act,
 for gain any other profession the practice of which mainly consists
 of—”.

**Amendment of section 18 of Act 56 of 1974, as amended by section 48 of Act 57
 of 1975, section 3 of Act 33 of 1976 and section 13 of Act 36 of 1977**

9. Section 18 of the principal Act is hereby amended—
 45 (a) by the substitution for subsection (1) of the following subsection:
 “(1) The registrar shall keep separate registers in respect of medical
 practitioners, dentists, interns, student interns, medical students, den-
 tal students, psychologists, intern-psychologists and psychology stu-
 50 dents and shall, on the instructions of the council, enter in the
 appropriate register the name, address, qualifications, date of initial
 registration and such other particulars (including, in the case of medical
 practitioners, dentists and psychologists, the name of their speciality **[if**
any, and in the case of psychologists also the name of their] or category,
 55 **[if any]** as the council may determine, of every person whose application
 for registration in terms of section 17(2) has been granted.”; and

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(b) by the substitution for subsection (4) of the following subsection:

5 “(4) The **[Secretary for the Interior]** Director-General: Home Affairs shall on receipt of the death register of a person showing that such person immediately prior to his death practised a profession the members of which are required to be registered under this Act, forthwith notify the registrar of such death.”

Amendment of section 19 of Act 56 of 1974

10 10. Section 19 of the principal Act is hereby amended by the addition to subsection (1) of the following paragraph:

“(f) who has been registered in error or through fraud.”

Amendment of section 32 of Act 56 of 1974, as substituted by section 5 of Act 33 of 1976 and amended by section 14 of Act 36 of 1977

15 11. Section 32 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

20 “(a) The registrar shall, as from time to time directed by the council, establish and keep registers in which shall, subject to the provisions of section 33(2), be entered particulars in respect of categories of persons who, to the satisfaction of the council, are being trained with a view to qualifying them for the practising of, or have been trained and have passed examinations with a view to qualifying them for the practising of, or of persons who are practising, any profession, other than the profession of a medical practitioner, dentist, intern, psychologist, intern-psychologist or any profession to which the provisions of the Nursing Act, **[1957 (Act No. 69 of 1957)]** 1978 (Act No. 50 of 1978), or the Pharmacy Act, 1974 (Act No. 53 of 1974), are applicable, which has as its object the treatment, prevention or relief of physical or mental defects, illnesses or deficiencies in man.”

Amendment of section 36 of Act 56 of 1974, as amended by section 16 of Act 36 of 1977

30 12. Section 36 of the principal Act is hereby amended—

(a) by the substitution in paragraph (c) of subsection (1) for the words preceding subparagraph (i) of the following words:

35 “except in accordance with the provisions of the **[Public]** Health Act, **[1919 (Act No. 36 of 1919)]** 1977 (Act No. 63 of 1977), the Nursing Act, **[1957 (Act No. 69 of 1957)]** 1978 (Act No. 50 of 1978), the **[Chiropractors Act, 1971 (Act No. 76 of 1971)]** **Associated Health Service Professions Act, 1982 (Act No. 63 of 1982)**, and sections 32, 33, 34 and 39 of this Act, performs any act whatsoever having as its object—”;

40 (b) by the substitution for paragraph (f) of subsection (1) of the following paragraph:

45 “(f) except in accordance with the provisions of the **[Public]** Health Act, **[1919]** 1977, the Nursing Act, **[1957]** 1978, the **[Chiropractors Act, 1971]** **Associated Health Service Professions Act, 1982**, and sections 32, 33, 34 and 39 of this Act, by words, conduct or demeanour holds himself 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 medicine, substance or thing in respect of such defects, illnesses or deficiencies; or”;

50 (c) by the substitution for paragraph (b) of subsection (2) of the following paragraph:

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- “(b) a pharmacist registered under the Pharmacy Act, 1974 (Act No. 53 of 1974), from performing any act falling within the scope of his profession as contemplated in that Act; or”.

Amendment of section 37 of Act 56 of 1974, as substituted by section 6 of Act 33 of 1976

13. Section 37 of the principal Act is hereby amended—

- (a) by the substitution in paragraph (c) of subsection (1) for the words preceding subparagraph (i) of the following words:
 “except in accordance with the provisions of the Nursing Act, **[1957 (Act No. 69 of 1957)] 1978 (Act No. 50 of 1978)**, and sections 32, 33, 34 and 39 of this Act, performs any act whatsoever having as its object—”;
- (b) by the substitution for paragraph (f) of subsection (1) of the following paragraph:
 “(f) except in accordance with the provisions of the Nursing Act, **[1957] 1978**, and sections 32, 33, 34 and 39 of this Act, by words, conduct or demeanour holds himself out to be able, qualified or competent to diagnose, treat or prevent mental defects, illnesses or deficiencies in man or to prescribe or supply any medicine, substance or thing in respect of such defects, illnesses or deficiencies,”;
- (c) by the substitution in subsection (4) for subparagraph (ii) of paragraph (a) of the following subparagraph:
 “(ii) a member of the academic staff of a university or a technikon or a teacher on the staff of a school established **[by a provincial administration or established under the Educational Services Act, 1967 (Act No. 41 of 1967), the Black Education Act, 1953 (Act No. 47 of 1953), the Coloured Persons Education Act, 1963 (Act No. 47 of 1963), the Coloured Persons in South-West Africa Education Act, 1972 (Act No. 63 of 1972), the Basters of Rehoboth Education Act, 1972 (Act No. 85 of 1972), the Nama in South-West Africa Education Act, 1972 (Act No. 86 of 1972), and the Indians Education Act, 1965 (Act No. 61 of 1965)] under any law,**”;
- (d) by the substitution for paragraphs (c) and (d) of subsection (4) of the following paragraphs:
 “(c) the performance of any act by a nurse registered under the Nursing Act, **[1957] 1978**, provided it is performed in the ordinary course of the practice of the profession of a nurse;
 (d) the performance of any act by or under the supervision of a social worker registered under the **[National Welfare Act, 1965 (Act No. 79 of 1965), or by or under the supervision of an officer in the service of the State performing social work as defined in section 1 of the said Act, provided it is performed in the ordinary course of the practice of the profession of such a social worker or such an officer or of the training of a social worker] Social Work Act, 1978 (Act No. 110 of 1978)**,”.

Amendment of section 38 of Act 56 of 1974

14. Section 38 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (3) of the following paragraph:
 “(a) a medical practitioner, not registered also as a dentist, from performing in the course of his practice acts pertaining to the

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5 practice of dentistry in cases of emergency or where no dentist is readily available, or as prohibiting the employment by and under the supervision of a dentist or any person registered under the Dental [Mechanicians Act, 1945 (Act No. 30 of 1945)] Technicians Act, 1979 (Act No. 19 of 1979), for the purpose of making or repairing dentures or other dental appliances, or as prohibiting any person from making or repairing any artificial denture or other dental appliances for his own profit, provided such work is carried out on the instructions and to the order of a dentist, and does not include the taking of any impression or bite or any trying in or fitting in the mouth;”.

Amendment of section 42 of Act 56 of 1974, as amended by section 8 of Act 33 of 1976 and section 7 of Act 79 of 1990

15 15. Section 42 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (4) of the following paragraph:

20 “(a) For the purposes of any inquiry held in terms of section 41, the council may take evidence and may, under the hand of the president or the registrar, summon witnesses and require the production of any book, record, document or thing, and may, through the president or the person presiding at the inquiry, administer an oath to any witness or accept an affirmation from him, and may examine any book, record, document or thing which any witness had been required to produce.”; and

25 (b) by the substitution in subsection (4) for subparagraph (ii) of paragraph (c) of the following subparagraph:

“(ii) refuses to take the oath or to make an affirmation when required by the president or the person presiding at the inquiry to do so;”.

30 **Insertion of section 54A in Act 56 of 1974**

16. The following section is hereby inserted in the principal Act after section 54:

“Exemption from operation of provisions of Act

35 54A. (1) The Minister may, on the recommendation of 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 a profession, likewise specified, in respect of which registration in terms of this Act is a pre-requisite for practising.

40 (2) Any reference in this Act or any other law to a person registered in terms of this Act to practise a profession 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.

45 (3) The Minister may, on recommendation of the council, at any time by notice in the *Gazette* amend or repeal any notice issued under subsection (1).”.

Amendment of section 55 of Act 56 of 1974

17. Section 55 of the principal Act is hereby amended by the substitution for paragraph (g) of the following paragraph:

55 “(g) supplies or offers to supply any person not registered under this Act or the Nursing Act, [1957 (Act No. 69 of 1957)] 1978 (Act No. 50 of 1978), any instrument or appliance which can be used, or is

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5 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 appliances 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 the said Nursing Act prohibited from performing for gain,”.

Repeal of section 55A of Act 56 of 1974, as inserted by section 11 of Act 52 of 1978

18. Section 55A of the principal Act is hereby repealed.

10 Repeal of section 65 of Act 56 of 1974

19. Section 65 of the principal Act is hereby repealed.

Short title

20. This Act shall be called the Medical, Dental and Supplementary Health Service Professions Amendment Act, 1992.