

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Vol. 335

CAPE TOWN, 7 MAY 1993

No. 14792

KAAPSTAD, 7 MEI 1993

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 789.

7 May 1993

No. 789.

7 Mei 1993

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

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

No. 63 of 1993: Associated Health Service Professions Amendment, Act 1993.

No. 63 van 1993: Wysigingswet op Geassosieerde Gesondheidsdiensberoepe, 1993.

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 Associated Health Service Professions Act, 1982, so as to delete, define or further define certain expressions; to change the name of the "South African Associated Health Service Professions Board" to the "Chiropractors, Homeopaths and Allied Health Service Professions Council"; to extend the general functions of the council; to provide for the establishment of professional boards for allied health service professions; to further regulate the registration of practitioners; to provide for the establishment of allied health service professions and for defining the scope thereof; to further regulate the prescribing of qualifications and temporary registration; to further regulate the registration of certain persons to give education or training, and the registration of students; to provide for the removal of names registered in error or through fraud; to provide for inquiries by professional boards into alleged misconduct by practitioners of allied health service professions; to increase the fines that may be imposed for misconduct; to provide for the payment of a fine where a person charged with misconduct admits his guilt; to provide that the execution of certain penalties may be suspended in part; to provide that a professional board may also take cognizance of certain conduct of practitioners; to provide for offences and penalties in respect of certain acts committed by practitioners of allied health service professions; to extend the powers of the Minister to make regulations and to increase the penalty for any contravention of the regulations; to provide that an aggrieved person may appeal to an appeal committee; and to provide that the Minister may exempt a juristic person from the operation of the Act; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 29 April 1993.)

BE IT ENACTED by the State President and the 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 and section 1 of Act 10 of 1990

1. Section 1 of the Associated Health Service Professions Act, 1982 (hereinafter referred to as the principal Act), is hereby amended— 5

(a) by the insertion before the definition of "annual fees" of the following definition:

"'allied health service profession' means any profession referred to in section 16;";

Act No. 63, 1993 ASSOCIATED HEALTH SERVICE PROFESSIONS AMENDMENT ACT, 1993

- (b) by the deletion of the definition of "board";
- (c) by the insertion after the definition of "board" of the following definition:
 " 'council' means the Chiropractors, Homeopaths and Allied Health Service Professions Council established by section 2(1);"; 5
- (d) by the substitution for the definition of "Minister" of the following definition:
 " 'Minister' means the Minister of National Health [and Population Development];";
- (e) by the substitution for the definition of "practitioner" of the following definition:
 " 'practitioner' means any person registered [as such] under this Act or who is deemed to be so registered;"; 10
- (f) by the substitution for the definition of "profession" of the following definition:
 " 'profession' means the profession of chiropractor or homeopath [naturopath, osteopath or herbalist] or an allied health service profession;"; and 15
- (g) by the insertion after the definition of "profession" of the following definition:
 " 'professional board' means a professional board established under section 10A(3);". 20

Substitution of heading to Chapter 1 of Act 63 of 1982

2. The following heading is hereby substituted for the heading to Chapter 1 of the principal Act: 25

"THE [SOUTH AFRICAN] CHIROPRACTORS, HOMEOPATHS AND ALLIED HEALTH SERVICE PROFESSIONS [BOARD] COUNCIL: OBJECTS AND FUNCTIONS".

Substitution of section 2 of Act 63 of 1982

3. The following section is hereby substituted for section 2 of the principal Act: 30

"Establishment of Chiropractors, Homeopaths and Allied Health Service Professions Council

2. **[(1)]** There is hereby established a juristic person to be known as the **[South African Associated] Chiropractors, Homeopaths and Allied Health Service Professions [Board] Council.** 35

[(2)] The head office of the board shall be situated in Pretoria.]"

Amendment of section 4 of Act 63 of 1982, as amended by section 2 of Act 10 of 1990

4. Section 4 of the principal Act is hereby amended by the insertion after paragraph (g) of subsection (1) of the following paragraph: 40

"(gA) approve any clinic established by any university or technikon or other training institution;".

Insertion of section 10A in Act 63 of 1982

5. The following section is hereby inserted in the principal Act after section 10: 45

"Establishment of professional boards for allied health service professions

10A. (1) If the council deems it in the public interest that a professional board be established in respect of any profession referred to in section 16(1) to promote the standard of professional education and professional conduct among members of such profession, it may, subject to the provisions of subsection (2), recommend to the Minister that a professional board be established in respect of such profession. 50

(2) The council shall, before making a recommendation in terms of subsection (1), consult with any body of persons which is representative of the profession concerned.

(3) The Minister may, after having received a recommendation referred to in subsection (1), by notice in the *Gazette* establish a professional board in respect of the profession to which such recommendation relates. 5

(4) The election and term of office of members and the powers and duties of a professional board shall be as prescribed.

(5) A professional board shall consist of not fewer than three and not more than five members, of whom— 10

(a) (i) one member, in the case of a council consisting of not more than four members; or

(ii) not more than two members as the Minister may determine, in the case of a council consisting of five members, shall be a member or members of the council designated by the council; and 15

(b) the other members shall be elected by persons registered in terms of this Act in respect of the profession concerned.

(6) Any professional board established under this section shall, in addition to the performance of any duty prescribed under subsection (4), 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. 20

(7) When a report referred to in subsection (6) is considered by the council, the chairman 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. 25 30

(8) Any professional board established under this section may 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.” 35

Substitution of section 15 of Act 63 of 1982, as substituted by section 4 of Act 108 of 1985

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

“Registration of practitioners 40

15. (1) Any person who desires to be registered as a chiropractor [or], homeopath or practitioner of an allied health service profession in terms of this Act, shall in the prescribed manner apply to the [board] council for registration, and such application shall be accompanied by— 45

(a) the qualification which in the applicant’s submission entitles him to registration;

(b) the prescribed registration fee and, in the case of an applicant who does not possess the prescribed qualification, also the prescribed application fee; 50

(c) proof of identity, citizenship, good character and the authenticity and validity of the qualification submitted; and

(d) such further documents and information as may be prescribed.

(2) For the purpose of considering any application contemplated in subsection (1), the [board] council may require the applicant in support of the application to furnish such further proof, whether orally or in writing, regarding his identity, good character, training and experience, as the [board] council may deem necessary and may require him to sit for such examination as the council may determine. 55

(3) If the **[board] council** after consideration of an application in terms of subsection (1) and after such investigation and enquiries as it may deem necessary, is satisfied that the applicant concerned may be registered in terms of this Act, it shall approve the application, and the registrar shall thereupon register the applicant by— 5

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

[(4) (a) The said registration of a person shall be subject to the provisions of this Act and such further conditions as the board may determine in each case. 10

(b) Such conditions may—

- (i) relate to the kind of work which a person who is registered in terms of this Act may perform;
- (ii) include requirements to be complied with in the practice of the profession in question; or 15

(iii) contain provisions regarding compulsory practical experience which a person who has before the date of his registration as a practitioner in terms of this Act—

(aa) not yet practised; or 20

(bb) in the opinion of the board not yet gained sufficient practical experience,

shall acquire, including the determination of a period during which, and the designation of a place or places where and the person or persons under whose supervision, such compulsory practical experience shall be acquired.] 25

[(5) (4) If the **[board] council refuses to approve an application, the applicant concerned shall be notified in writing of such decision and of the grounds on which it is based. 30**

[(6) (5) Any person who is registered or deemed to be registered in terms of this Act shall, in the practice of his profession, only state particulars of those degrees, diplomas or certificates entered in the appropriate register against his name. 30

[(7) (6) (a) The **[board] council may delegate any of the powers conferred upon it by this section to the registrar, but shall not be divested of any power so delegated. 35**

(b) Any registration or refusal of registration by the registrar in the exercise of a power delegated to him in terms of paragraph (a), shall be of full force and effect, unless it is set aside or amended by the **[board] council** at its first meeting following upon the date on which such registration or refusal of registration occurred.”. 40

Insertion of section 16 in Act 63 of 1982

7. The following section is hereby inserted in the principal Act after section 15:

“Allied health service professions

16. (1) The Minister may, at the request of the council, by notice in the Gazette declare the provisions of this Act to be applicable to any profession which has as its object the treatment, prevention or relief of physical defects, illnesses or deficiencies in man, excluding the profession of a chiropractor or homeopath 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. 45 50

(2) The Minister may, on the recommendation of the council, by regulation define the scope of any allied health service profession by 55

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."

Substitution of section 16B of Act 63 of 1982, as inserted by section 6 of Act 108 of 1985

8. 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 **[board] council**, prescribe the qualifications obtained by virtue of examinations conducted by a university or other examining authority which, when held singly or conjointly with any other qualification, shall entitle any holder thereof to registration under this Act as a chiropractor **[or]**, homeopath or practitioner of an allied health service profession, as the case may be, if he 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 **[or]**, 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;
- (b) the **[board] council** is satisfied that possession of such qualification indicates a standard of professional training lower than that prescribed in respect of the training of chiropractors **[or]**, homeopaths or practitioners of allied health service professions within the Republic."

Substitution of section 16C of Act 63 of 1982, as inserted by section 6 of Act 108 of 1985 and amended by section 3 of Act 10 of 1990

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

"Temporary registration

16C. (1) The **[board] 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 **[board] council**, indicates a satisfactory standard of professional education, and may, subject to the provisions of subsections (2) and (3) and section 15(1) and (2), register any person as a chiropractor **[or]**, homeopath or practitioner of an allied health service profession

who possesses such qualification and who, in the opinion of the **[board] 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) may only practise as a chiropractor **[or]**, homeopath or practitioner of an allied health service profession, as the case may be—

(a) for such period or periods as the **[board] council** may determine, and before the expiration of which he shall satisfy the **[board] council** that—

(i) he possesses professional knowledge and skill which is of a standard not lower than that prescribed in terms of this Act in respect of chiropractors **[or]**, homeopaths or practitioners of allied health service professions, as the case may be, in the Republic; and

(ii) he is conversant with the laws of the Republic relating to chiropractic **[or]**, 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 service profession, as the case may be;

(b) in such area or areas as the **[board] council** may determine; and

(c) subject to such **[further]** conditions as the **[board] council** may determine.

(3) The **[board] council** may for the purposes of subsection (2)(a) require the person concerned to sit for such examination or examinations as the **[board] council** may determine.

(4) The Minister may from time to time, on the recommendation of the **[board] council**, make regulations—

(a) prescribing the fee to be paid by persons intending to sit for an examination; and

(b) prohibiting a person who has failed such examination a prescribed number of times, from sitting again for such an examination.

(5) If at the expiration of the period referred to in subsection (2)(a) the **[board] council** is satisfied that a person registered in terms of subsection (1) complies with the requirements of subsection (2)(a)(i) and (ii), it shall exempt such person from all restrictions imposed in respect of him under **[subsection (2)] this section**, and if the **[board] council** is not so satisfied, he shall remove the name of such person from the register.”

Substitution of section 16E of Act 63 of 1982, as inserted by section 6 of Act 108 of 1985

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

“Registration of certain persons so as to enable them to give education or training 45

16E. (1) For the purposes of promoting education or training in chiropractic **[or]**, homeopathy or any allied health service profession the **[board] council** may, notwithstanding the provisions of this Act, register any person not permanently resident within the Republic **[as a chiropractor or homeopath] in the profession in which he gives education or training**, for such period as the **[board] council** may determine. 50

(2) Any person registered in terms of subsection (1), may give **[demonstrations] education or training** at institutions approved for that purpose by the **[board] council**, relating to **[chiropractic or homeopathic techniques, as the case may be] the profession concerned**, for such period as the **[board] council** may determine.” 55

Amendment of section 16F of Act 63 of 1982, as inserted by section 6 of Act 108 of 1985**11. Section 16F of the principal Act is hereby amended—**

(a) by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) Every educational institution at which a qualification can be obtained which entitles any holder thereof to registration under this Act **[as a chiropractor or homeopath]**, excluding a university or technikon established by or under an Act of Parliament, shall furnish the **[board] council** on its request with such information relating to entrance requirements, curricula and syllabuses, examinations and any related matter as the **[board] council** may from time to time require.

(2) If any educational institution referred to in subsection (1) fails or refuses to furnish any information requested by the **[board] council** under that subsection, or if it appears to the **[board] council** that any provision of this Act is not being properly complied with by any such educational institution and that such improper compliance is having or may have an adverse effect on the relevant standards of education **[in chiropractic or homeopathy]** maintained at that educational institution, the Minister may, on the recommendation of the **[board] council**, by notice in the *Gazette* declare that any specified qualification granted by such educational institution after a date specified in the notice shall not entitle any holder thereof to registration under this Act.”; and

(b) by the substitution for subsections (5) and (6) of the following subsections, respectively:

“(5) The **[board] council** may appoint a person to be present whenever tests are being conducted by any educational institution referred to in subsection (1) in respect of the academic progress made by students **[in chiropractic or homeopathy]** at such educational institution and to report to the **[board] council** upon such tests.

(6) The person in charge of an educational institution referred to in subsection (1) shall forthwith notify the **[board] council** of the termination of the education or training of a student **[in chiropractic or homeopathy]** at such institution, whether by reason of the abandonment or completion of education or training or the transfer of such student to another such institution, or for any other reason.”.

Substitution of section 18 of Act 63 of 1982, as substituted by section 7 of Act 108 of 1985

12. The following section is hereby substituted for section 18 of the principal Act:

“Registration of students

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

(2) If the **[board] council** is satisfied that the applicant is entitled to registration as such a student, it shall cause the necessary entry to be made in the register, and the registrar shall thereafter issue to the applicant a registration certificate in the prescribed form.”.

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

13. Section 21 of the principal Act is hereby amended—

- (a) by the substitution for the words preceding paragraph (a) of subsection (1) of the following words: 5
 “The **[board]** council may instruct the registrar, subject to the provisions of subsection (5), to remove the name of any practitioner from the register if the **[board]** council is satisfied that that practitioner—”;
- (b) by the addition to subsection (1) of the following paragraph: 10
 “(f) has been registered in error or through fraud.”
- (c) by the substitution for subsection (2) of the following subsection: 15
 “(2) Notice of the removal by virtue of the provisions of any one of paragraphs (b) up to and including **[(e)] (f)** of subsection (1) of his name from the register shall be given by the registrar to the person concerned by registered letter sent through the post to his address appearing in the register.”;
- (d) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words: 20
 “The **[board]** council shall instruct the registrar to restore to the register a name removed therefrom by virtue of the provisions of any one of paragraphs (b) up to and including **[(e)] (f)** of subsection (1) if the person concerned—”; and
- (e) by the addition of the following subsection: 25
 “(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) unless the council has consulted with the professional board (if any) established in respect of the profession concerned.”

Substitution of section 23 of Act 63 of 1982, as amended by section 11 of Act 108 of 1985 30

14. The following section is hereby substituted for section 23 of the principal Act:

“Inquiry into alleged misconduct

- 23. (1) The **[board]** 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, institute an inquiry into any complaint, charge or allegation of improper or disgraceful conduct against any practitioner and 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 allegation which forms or is likely to form the subject of criminal proceedings, the **[board]** 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.** 35 40 45
- (2) Whenever the **[board]** council or a professional board, as the case may be, is in doubt as to whether an inquiry shall be held, it may in connection with the complaint, charge or allegation in question consult with or seek information from any person, including the practitioner against whom the complaint, charge or allegation has been lodged. 50
- (3) If a professional board holding an inquiry under this section, finds the person charged guilty of improper or disgraceful conduct or of conduct which in consideration of the profession in respect of which that person is registered, is improper or disgraceful, it shall note its finding and inform such person thereof, and shall at the same time 55

inform such person of the penalty the imposition of which it intends to recommend to the council, and it shall before the next ensuing meeting of the council submit to the council the minutes of the proceedings at the inquiry together with the recommendation concerning a proper penalty. 5

(4) Any person found guilty in terms of subsection (3), may at any time before the next ensuing meeting of the council, submit to the council written representations in regard to the finding made by the professional board and the penalty recommended by it.

(5) If the council, after having considered the minutes kept by the professional board, and the representations referred to in subsection (4), is of the opinion— 10

(a) that the finding should not be upheld, it shall set such finding aside, and inform the person and the professional board concerned thereof; or 15

(b) that the finding is correct, it may impose upon the person concerned any penalty referred to in section 24.

(6) The provisions of sections 24(2) up to and including (8) and 25 shall *mutatis mutandis* apply in respect of any inquiry conducted by any professional board referred to in subsection (1), and for the purposes of the said provisions any reference in section 24— 20

(a) to the chairman of the council shall be deemed to be a reference to the chairman of such professional board;

(b) to the prescribed form of a summons shall be deemed to be a summons as prescribed for use by a professional board.”. 25

Amendment of section 24 of Act 63 of 1982, as amended by section 12 of Act 108 of 1985

15. Section 24 of the principal Act is hereby amended—

(a) by the substitution for paragraph (d) of subsection (1) of the following paragraph: 30

“(d) a fine not exceeding [R2 000] R10 000.”;

(b) by the substitution in paragraph (c) of subsection (3) for the words following upon subparagraph (iv) but preceding the proviso, of the following words: 35

“shall be guilty of an offence and on conviction liable to a fine [not exceeding R100], or to imprisonment for a period not exceeding three months.”;

(c) by the deletion of paragraph (b) of subsection (8); and

(d) by the addition of the following subsections: 40

“(9) If any person registered in terms of this Act is alleged to be guilty of improper or disgraceful conduct or conduct which, in consideration of the profession in respect of which that person is registered, is improper or disgraceful, and the council or a professional board is of the opinion that on conviction after an inquiry under section 23, a fine not exceeding R2 500 shall be imposed upon him, the council or professional board may issue a summons as prescribed against such person upon which an endorsement is made by the council or a professional board that such person may admit that he is guilty of the said conduct and that he may pay the fine stipulated. 45 50

(10) If a person summoned in terms of subsection (9), admits his guilt in respect of the conduct referred to in subsection (1) by paying the stipulated fine to the council before a date specified in the summons, an inquiry shall not be held under section 23.

(11) Payment of a fine in terms of subsection (10) shall not be regarded as a previous conviction with regard to any subsequent inquiry into the conduct of such person and shall not be published in the *Gazette* in terms of subsection (2). 55

(12) The Minister may, on the recommendation of the council, by notice in the *Gazette* amend the amount referred to in subsection (9).”

Substitution of section 25 of Act 63 of 1982, as amended by section 13 of Act 108 of 1985

5

16. The following section is hereby substituted for section 25 of the principal Act:

“Postponement of imposition, and suspension of execution, of penalty or part thereof

25. (1) Where the **[board] council** finds any practitioner guilty of conduct referred to in section 24(1) or imposes a penalty in terms of section 23(5)(b), it may—

10

(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 24(1)(b) **[or] (c) or (d)**, but order the execution of the penalty (or any part thereof in the case of a penalty referred to in section 24(1)(b)) to be suspended for such period and on such conditions as it may determine.

15

(2) (a) If at the end of the period for which the imposition of a penalty has been postponed in terms of subsection (1)(a), the **[board] council** is satisfied that the practitioner concerned has observed all the relevant conditions, the **[board] council** shall inform him that no penalty will be imposed upon him.

20

(b) If the execution of a penalty or any part thereof has been suspended in terms of subsection (1)(b) and the **[board] council** is satisfied that the practitioner concerned has observed all the relevant conditions throughout the period of suspension, the **[board] council** shall inform him that the penalty will not be executed.

25

(c) 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 **[board] council** shall execute the penalty unless that practitioner satisfies the **[board] council** that the non-observance of the condition concerned was due to circumstances beyond his control.”

30

Substitution of section 27 of Act 63 of 1982, as substituted by section 15 of Act 108 of 1985

35

17. The following section is hereby substituted for section 27 of the principal Act:

“Cognizance by council or professional board of certain conduct of practitioners

40

27. (1) Any practitioner who, either before or after registration, has been convicted in the Republic or elsewhere of any offence, may be dealt with by the **[board] council or a professional board concerned** in terms of this Chapter if the **[board] council or professional board concerned** is of the opinion that the offence concerned constitutes conduct which is improper or disgraceful or which in consideration of any profession in respect of which the practitioner concerned is registered, is improper or disgraceful, and that practitioner shall, upon proof of the conviction, be liable to one or other of the penalties referred to in section 24(1): Provided that the said practitioner shall, before any penalty is imposed, be afforded the opportunity of tendering an explanation to the **[board] council or professional board concerned** in mitigation of any such penalty.

45

50

(2) (a) When in the course of any criminal proceedings it appears to the court that there is *prima facie* proof of conduct contemplated in section 24(1) on the part of a practitioner, the court shall direct that

55

a copy of the record of the proceedings or of such portion thereof as is material to such conduct, be transmitted to the [board] council.

(b) If the practitioner practises a profession in respect of which a professional board has been established, the council shall transmit a copy of the record referred to in paragraph (a) to such professional board." 5

Substitution of section 29 of Act 63 of 1982, as amended by section 16 of Act 108 of 1985

18. The following section is hereby substituted for section 29 of the principal Act:

"Acts or omissions in respect of which council or professional board may take disciplinary action 10

29. (1) (a) The [board] council shall from time to time make rules specifying the acts or omissions in respect of which the [board] council or a professional board, as the case may be, may take disciplinary action under this Chapter: Provided that the powers of the [board] council or a professional board to inquire into and take any action in connection with any complaint, charge or allegation of improper or disgraceful conduct against any practitioner in terms of this Chapter, shall not be limited to the acts or omissions so specified. 15

(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). 20

(2) No rule made under subsection (1) shall be of force and effect until approved by the Minister and published in the *Gazette*.

(3) The Minister may after consultation with the executive committee of the [board] council, subject to subsection (1)(b), and if he deems it to be in the public interest, amend or repeal any rule made under subsection (1)." 25

Amendment of section 31 of Act 63 of 1982, as amended by section 18 of Act 108 of 1985 30

19. Section 31 of the principal Act is hereby amended—

(a) by the substitution for paragraph (d) of subsection (1) of the following paragraph:

"(d) uses the title of chiropractor, homeopath, naturopath, osteopath [or], herbalist or an allied health service profession 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 chiropractor, homeopath, naturopath, osteopath or herbalist or an allied health service profession;"; and 35 40

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

"(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), [or] 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 profession, as contemplated in the appropriate Act, which may lawfully be performed by him; 45 50

(b) a chiropractor or homeopath of 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."

Amendment of section 32 of Act 63 of 1982

20. Section 32 of the principal Act is hereby amended by the substitution for the words preceding subparagraph (i) of paragraph (b) of subsection (1) of the following words:

“A practitioner in the profession of homeopath, naturopath, osteopath or herbalist or any allied health service profession or a student who is registered in respect of any such profession shall not—”

Amendment of section 38 of Act 63 of 1982, as amended by section 22 of Act 108 of 1985 and section 27 of Act 94 of 1991

21. Section 38 of the principal Act is hereby amended—

(a) by the substitution for paragraphs (b) and (c) of subsection (1) of the following paragraphs, respectively:

“(b) the conduct of the business, and the quorum and procedure, at meetings of the [board] council and professional boards, the executive committee and other committees of the [board] council, and the manner in which minutes of such meetings shall be kept;

(c) the allowance which may be paid to members of the [board] council or of professional boards, the executive committee and other committees of the [board] council, excluding members in the full-time service of the State, when occupied with the affairs of the [board] council;”

(b) by the substitution for subparagraph (ii) of paragraph (sA) of subsection (1) of the following subparagraph:

“(ii) the minimum requirements of the curricula and the standards of education and examinations [in chiropractic or homeopathy] which shall be maintained at any educational institution at which such education is provided, in order to secure recognition under this Act of the qualification [in chiropractic or homeopathy] concerned obtained at such educational institution;”

(c) by the addition of the following paragraph to subsection (2), the existing subsection becoming paragraph (a):

“(b) Any regulation pertaining to a professional board or the profession in respect of which it is established, shall be made only after consultation with the professional board concerned.”; and

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

“(4) Any regulation made under this section may prescribe a penalty for any contravention thereof or failure to comply therewith [not exceeding a fine of R100] of a fine, or imprisonment for a period not exceeding three months.”

Insertion of sections 38B and 38C in Act 63 of 1982

22. The following sections are hereby inserted in the principal Act after section 38A:

“Appeal

38B. (1) Any person who considers himself aggrieved—

(a) by the refusal of the council or a committee to register him in terms of this Act or to restore his name to a specific register;

(b) by any penalty imposed on him under section 24;

(c) by the removal of his name from a register under section 21(1), may within a period of three months after the date of such refusal, imposition of penalty or removal, appeal to an appeal committee.

(2) Any appeal committee referred to in subsection (1), shall be appointed by the Minister and consist of—

- (a) a magistrate with not fewer than ten years experience as a magistrate, who shall be the chairman; and
- (b) two practitioners who practise the same profession as the appellant concerned, who have no direct interest in the affairs of the appellant or are not in the employment of the appellant and who are not members of the council or professional board concerned. 5
- (3) The appellant may appear in person or through a legal representative before the appeal committee, or submit written statements or arguments in support of his appeal. 10
- (4) The procedure in connection with the noting and prosecution of an appeal in terms of this section, shall be as prescribed.
- (5) The appeal committee hearing an appeal under this section, may confirm or set aside the refusal, penalty or removal forming the subject of the appeal, and may, if it is set aside, give such judgment as in its opinion ought to have been given by the council or committee and may direct the council to do everything necessary to give effect to the judgment of the appeal committee. 15
- (6) The commencement of a refusal, penalty or removal against which an appeal is lodged, shall be suspended by the lodging of an appeal in terms of subsection (1), until the appeal is disposed of by the appeal committee or withdrawn by the appellant. 20
- (7) Any member of the appeal committee who is not in the full-time service of the State, may be paid such remuneration and allowance as the Minister may from time to time determine with the concurrence of the Minister of State Expenditure. 25

Exemption from operation of provisions of Act

- 38C.** (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 prerequisite for practising. 30
- (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. 35 40
- (3) The Minister may, on the recommendation of the council, at any time by notice in the *Gazette* amend or repeal any notice issued under subsection (1)."

Substitution of word in Act 63 of 1982

23. The principal Act is hereby amended by the substitution for the word "board", wherever it occurs, of the word "council". 45

Substitution of section 43 of Act 63 of 1982

24. The following section is hereby substituted for section 43 of the principal Act:

"Short title

43. This Act shall be called the [Associated Health Service Professions] Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982 [and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*]."

Substitution of long title of Act 63 of 1982

25. The following long title is hereby substituted for the long title of the principal Act:

“ACT

To provide for the control of the practice of the professions of **5**
chiropractor and homeopath [naturopath, osteopath and herbalist] and
allied health professions, and for that purpose to establish a [South
African Associated Health Service Professions Board] Chiropractors,
Homeopaths and Allied Health Service Professions Council and to
determine its functions; and for matters connected therewith.”. 10

Transitional provisions

26. (1) Any reference in any law or document in force immediately prior to the commencement of this Act, to the South African Associated Health Service Professions Board, shall, unless inconsistent with the context or otherwise clearly inappropriate, be construed as a reference to the Chiropractors, Homeopaths and **15**
Allied Health Service Professions Council.

(2) The provisions of this Act shall not derogate from the rights of any person who, immediately prior to the commencement of this Act, is deemed under section 42(3) of the Associated Health Service Professions Act, 1982 (Act No. 63 of 1982), to be registered as a naturopath, osteopath or herbalist, and in respect **20**
of the practising of his profession such person shall remain subject to the provisions of the latter Act as amended from time to time.

Short title

27. This Act shall be called the Associated Health Service Professions **25**
Amendment Act, 1993.