

REPUBLIC OF SOUTH AFRICA

**CHIROPRACTORS, HOMEOPATHS
AND ALLIED HEALTH SERVICE
PROFESSIONS SECOND
AMENDMENT BILL**

*(As amended by the Select Committee on Social Services (National Council of Provinces)
(The English text is the official text of the Bill)*

(SELECT COMMITTEE ON SOCIAL SERVICES)

[B 66B—2000]

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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.

BILL

To amend the Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982, so as to define certain expressions; to amend certain definitions and delete others; to abolish the Chiropractors, Homeopaths and Allied Health Service Professions Interim Council; to establish the Allied Health Professions Council of South Africa; to provide for the establishment of professional boards; to regulate the relationship between the new Council and the professional boards; to make provision for matters relating to the responsibility, accountability, democratisation and transparency of the Council and professional boards; and to provide for matters connected therewith.

BE IT ENACTED by 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, section 1 of Act 10 of 1990, section 1 of Act 63 of 1993 and section 1 of Act 40 of 1995

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

(a) the insertion before the definition of “allied health service profession” of the following definition:

“ ‘acupuncturist’ means a person registered as such under this Act in 10
respect of the profession of Chinese medicine and acupuncture;”;

(b) the substitution for the definition of “allied health service profession” of the following definition:

“ ‘allied health **[service]** profession’ means **[any]** the profession 15
[referred to in] of ayurveda, Chinese medicine and acupuncture, chiropractic, homoeopathy, naturopathy, osteopathy, phytotherapy, therapeutic aromatherapy, therapeutic massage therapy or therapeutic reflexology, or any other profession contemplated in section 16(1) to which this Act applies;”;

(c) the insertion after the definition of “annual fees” of the following definitions: 20

“ ‘ayurveda practitioner’ means a person registered as such under this Act;
‘chairperson’ means the chairperson contemplated in section 7(1);
‘chiropractor’ means a person registered as such under this Act;”;

- (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 5
 definitions:
 “ ‘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 Education and 10
 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 this Act;”;
- (f) the deletion of the definition of “former council”; 15
- (g) the insertion after the definition of “Director-General” of the following
 definitions:
 “ ‘homoeopath’ means a person registered as such under this Act;
 ‘intern’ means a person registered as such in terms of section 19;”;
- (h) the substitution for the definition of “medical practitioner” of the following 20
 definition:
 “ ‘medical practitioner’ means a person registered as such under the
[Medical, Dental and Supplementary] Health **[Service]** Professions
 Act, 1974 (Act No. 56 of 1974);”;
- (i) the insertion after the definition of “Minister” of the following definitions: 25
 “ ‘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) the substitution for the definition of “practitioner” of the following definition:
 ‘practitioner’ means [**any**] a person registered [**under**] as an acupunc- 30
 turist, ayurveda practitioner, chiropractor, homeopath, naturopath, osteo-
 path or physiotherapist, in terms of this Act [**or who is deemed to be so**
registered];”;
- (k) the substitution for the definition of “profession” of the following definition:
 “ ‘profession’ means [**the profession of chiropractor or homeopath or** 35
an] any allied health **[service]** profession;”;
- (l) the substitution for the definition of “professional board” of the following
 definition:
 “ ‘professional board’ means a professional board established under
 section 10A[(3)];”;
- (m) the substitution for the definition of “regulation” of the following definition:
 “ ‘regulation’ means any regulation made under **[section 38]** this Act;”;
- (n) the insertion after the definition of “regulation” of the following definitions:
 “ ‘rule’ means any rule made under this Act;
 ‘scheduled substance’ means any scheduled substance as defined in 45
 section 1 of the Medicines and Related Substances Control Act, 1965
 (Act No. 101 of 1965);
- (o) The insertion after the definition of “student” of the following definitions:
 “ ‘student-intern’ means a person registered as such in terms of section 50
 19;
 ‘therapeutic aromatherapist’ means a person registered as such under this
 Act;
 ‘therapeutic massage therapist’ means a person registered as such under
 this Act;
 ‘therapeutic reflexologist’ means a person registered as such under this 55
 Act;
 ‘therapist’ means a person registered as a therapeutic aromatherapist,
 therapeutic massage therapist or therapeutic reflexologist in terms of this
 Act;”;

- (p) the substitution for the definition of “this Act” of the following definition:
 “ ‘this Act’ includes any **[regulations]** regulation, rule and order made or issued under this Act;”;
- (q) 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 contemplated in section
7(1).”;
- (r) the addition of the following subsection, the existing section becoming
 subsection (1):
 “(2) For purposes of this Act—
 (a) a practitioner may—
 (i) diagnose, and treat or prevent, physical and mental disease,
 illness or deficiencies in humans;
 (ii) prescribe or dispense medicine; or
 (iii) provide or prescribe treatment for such disease, illness or
 deficiencies in humans;
 (b) a therapist may—
 (i) treat or provide treatment for diagnosed disease, illness or
 deficiencies in humans; or
 (ii) prevent such disease, illness or deficiencies in man; and
 (c) any reference in this Act, except in section 16(3), (4), (5) and (6), to
practitioner includes a therapist.”.

Substitution of heading of Chapter 1 of Act 63 of 1982, as substituted by section 2 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 [INTERIM] COUNCIL OF SOUTH AFRICA:
ESTABLISHMENT, OBJECTS AND FUNCTIONS”.

Substitution of section 2 of Act 63 of 1982, as substituted by section 3 of Act 40 of 1995

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

**“Establishment of [Chiropractors, Homeopaths and] Allied Health
 [Service] Professions [Interim] Council of South Africa**

2. (1) There is hereby established a juristic person to be known as the
[Chiropractors, Homeopaths and] Allied Health [Service] Professions
[Interim] Council of South Africa and the first meeting of the council 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 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 this Act as it relates **[relating]** to the professions registered with the council;
- (e) to make recommendations to the Minister within a period of 12 months calculated as from the date of commencement of the Chiropractors, Homeopaths and Allied Health Service Professions Second Amendment Act, 2000, on the constitution of [a new] the 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] with due regard to the number of persons registered in terms of this Act in respect of every profession: Provided that—
 - (i) registers for chinese medicine and acupuncture, therapeutic aromatherapy, therapeutic massage therapy and therapeutic reflexology must be opened within a period referred to in paragraph (e); and
 - (ii) each profession shall not have more than three representatives on the council;
- (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 [functions] powers of council

- 4. 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]** and accredit any provider to conduct 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 substituted by section 6 of Act 40 of 1995 and amended by section 2 of Act 91 of 1997

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

“Constitution of council

- 5.** (1) The council shall consist of the following members, namely— 5
- (a) ten persons elected in the prescribed manner of whom—
- (i) one is registered as an acupuncturist and has been elected in the prescribed manner;
 - (ii) one is registered as an ayurvedic practitioner and has been elected in the prescribed manner; 10
 - (iii) one is registered as a chiropractor and has been elected in the prescribed manner;
 - (iv) one is registered as a homoeopath and has been elected in the prescribed manner;
 - (v) one is registered as a naturopath and has been elected in the prescribed manner; 15
 - (vi) one is registered as an osteopath and has been elected in the prescribed manner;
 - (vii) one is registered as a phytotherapist and has been elected in the prescribed manner; 20
 - (viii) one is registered as a therapeutic aromatherapist and has been elected in the prescribed manner;
 - (ix) one is registered as a therapeutic massage therapist and has been elected in the prescribed manner; and
 - (x) one is registered as a therapeutic reflexologist and has been elected in the prescribed manner; and 25
- (b) six persons appointed by the Minister of whom—
- (i) one person shall represent the Department of Health;
 - (ii) one person shall be appointed on account of his or her knowledge of the law; and
 - (iii) four persons shall be community representatives. 30
- (2) The Minister shall appoint the community representatives referred to in subsection (1)(b)(iii) after the registrar has obtained nominations in the prescribed manner.
- (3) After the Minister has appointed the community representatives referred to in subsection (1)(b)(iii), the Minister shall inform the registrar in writing of the names of such community representatives. 35
- (4) (a) The community representatives referred to in subsection (1)(b)(iii) shall be persons who have expertise in the fields of health, education and welfare, but who are not registered under this Act. 40
- (b) 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. 45
- (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 or bodies referred to in subsection (1) shall inform the registrar in writing of the names of the persons elected by them in terms of that subsection. 50
- (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). 55
- (9) If any of the persons or bodies referred to in subsection (1) fails to elect a person or persons as required or to inform the registrar in terms of subsection (7) of the names of the persons to be elected 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 relevant provision of subsection (1).” 60

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 by—

- (a) the substitution for the heading of the following heading:
 - “**Disqualification for appointment as member, vacation of office by members and filling of vacancies on the council**”;
- (b) the substitution in subsection (1) 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) the substitution for subsection (2) of the following subsection:
 - “(2) A member of the council shall vacate his or her office if he or she—
 - (a) **[he]** becomes subject to any disqualification contemplated in subsection (1);
 - (b) **[he]** ceases to hold any qualification necessary for his or her appointment;
 - (c) **[he]** has been absent from more than two consecutive ordinary meetings of the council without the council’s leave;
 - (d) **[he]** 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) 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]** 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]** 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 membership.]**
 - (h) becomes impaired to the extent that he or she is unable to carry out his or her duties as a member of the council.”; and
- (d) the substitution for subsection (3) of the following subsection:
 - “(3) Any vacancy on the council arising from a circumstance 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]** or election, as the case may be, by the person or body by whom and in the manner in which the vacating member was required to be appointed or elected, and every member so appointed or elected shall hold office for the unexpired portion of the period of office of the vacating member.”.

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 annually, 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 may be re-elected for one further term of office.”.

Substitution of section 10A of Act 63 of 1982, as inserted by section 5 of Act 63 of 1993

9. 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. 5

(2) The Minister may, on the recommendation of the council, disestablish any professional board contemplated in subsection (1), and may establish one or more professional boards in its stead. 10

(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 disestablishment or establishment. 15

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

(5) Regulations relating to the constitution, functions and functioning of a professional board shall at least provide for— 20

(a) the majority of the members of a professional board to be elected by the persons registered in the profession in question;

(b) one person representing the community who is not registered under this Act, to be appointed to each professional board by the Minister and such person to also serve on the council; 25

(c) the establishment by a professional board of such committees as it may deem necessary, each consisting of as 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; 30

(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 duties of such a chairperson and vice-chairperson; and 35

(f) the term of office of the members of a professional board.

(6) 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. 40

(7) (a) Subject to paragraph (b), the council may delegate to any professional board such of its powers as the council may determine.

(b) The council shall not be divested of any power so delegated and may amend or set aside any decision of a professional board made in the exercise of any such power.”. 45

Insertion of sections 10B, 10C and 10D in Act 63 of 1982

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

“Disqualification for appointment as member, vacation of office by members and filling of vacancies on professional boards 50

10B. (1) No person who—

(a) is an unrehabilitated insolvent;

(b) in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), is disqualified from practising his or her profession; or

(c) is not a South African citizen permanently resident in the Republic, shall be a member of a professional board. 55

- (2) A member of a professional board shall vacate his or her office if he or she—
- (a) becomes subject to any disqualification contemplated in subsection (1);
 - (b) ceases to hold any qualification necessary for his or her appointment;
 - (c) has been absent from more than two consecutive ordinary meetings of the professional board concerned without such professional board's leave;
 - (d) tenders his or her resignation in writing to the chairperson of the professional board;
 - (e) becomes a patient or State patient as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973);
 - (f) 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) 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 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.

Objects 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, that 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 profession and to protect the public.

Powers of a professional board

- 10D.** 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 an inquiry in terms of section 23;
 - (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 shall—
- (i) be present or be represented at the meeting at which such report is considered by the council;
 - (ii) have the right to address the council concerning any matter dealt with in such report;
 - (iii) have the right to vote if any vote is taken at such meeting in respect of such matter; and
 - (iv) 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 applies to such professional board or the profession in respect of which such professional board was established;
- (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.”.

Amendment of section 11 of Act 63 of 1982

11. 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 to each professional board and shall in that capacity perform, in addition to such functions as may otherwise be assigned to him or her by or under this Act, such functions as may from time to time be assigned to him or her by the council.”; and
 - (b) the addition of the following subsections:

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

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

(5) The appointment or dismissal of the registrar shall be subject to the approval of the Minister.”.

Amendment of section 12 of Act 63 of 1982

12. Section 12 of the principal Act is hereby amended by the addition of the following subsections after subsection (2):
- “(3) The council may 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 substituted by section 6 of Act 63 of 1993

13. Section 15 of the principal Act is hereby amended by—
- (a) the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“Any person who desires to be registered as a **[chiropractor, homeopath or]** practitioner of 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 after 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]** recommend to council the approval 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 or her; and
- (b) entering the prescribed particulars in respect of him or her 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 any other qualification recommended by the professional board and approved by the council.”;

and

(d) the addition of the following subsection:

“(7) Every person who desires to have a qualification registered, other than the qualification by virtue of which he or she has in the first instance been registered, or to have a speciality registered, shall, upon payment of the prescribed fee and subject to the provisions of subsection (2), be entitled to have such other qualification or such speciality entered in the register.”.

Substitution of section 16 of Act 63 of 1982, as inserted by section 7 of Act 63 of 1993

14. 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* declare the provisions of this Act to be applicable to any profession which has as its object the promotion of health, or the treatment, prevention or relief of physical or mental defects, illnesses or deficiencies in **[man] humans**, 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 professions excluded in terms of subsection (1) are the professions of—

- (a) ayurveda, chiropractic and homoeopathy;
- (b) naturopathy, osteopathy and phytotherapy, for which professional registers shall be re-established with effect from the date of commencement of the Chiropractors, Homeopaths and Allied Health Service Professions Second Amendment Act, 2000; and
- (c) Chinese medicine and acupuncture, therapeutic aromatherapy, therapeutic massage therapy and therapeutic reflexology, for which professional registers shall be established with effect from the date of commencement of the Chiropractors, Homeopaths and Allied Health Service Professions Second 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 Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), and subject to the approval of the Medicines Control Council, the Minister may, on the recommendation of the council, by regulation prescribe access to and availability of medicines relative to the professions registered in terms of this Act.

(4) (a) Subject to the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), every practitioner whose name has been entered in the register of dispensing practitioners contemplated in paragraph (b) may, on such conditions as the council, after consultation with the relevant professional board, may determine in writing, in general or in a particular case, 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 by such practitioner or such other practitioner: Provided that he or she may not 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 scheduled substances and shall, at the direction of the council, enter in the register the name of a practitioner and such other particulars as the council may determine if the practitioner—

- (i) within three months after the commencement of the Chiropractors, Homeopaths and Allied Health Service Professions Second Amendment Act, 2000, submits proof to the satisfaction of the registrar that immediately before such commencement date he or she compounded or dispensed medicine as contemplated in paragraph (a) in the practice of his or her profession; or
- (ii) 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 paragraph (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 by regulation determine fees to be paid for the entering or re-entering of a name in the register contemplated in subsection (4)(b).”.

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

15. 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, unless such education or training has been considered by the relevant professional board and approved by the council after considering a recommendation by the relevant board.

(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 such particulars regarding such education or training as the council may require.

(3) The council may, after consultation with the relevant professional board, 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) The council may appoint a person to attend examinations in respect of any allied health profession regulated by or under this Act which are being conducted by a person or institution whose application has been approved by the council in terms of subsection (3). 5

(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 **[not exceeding two thousand rand]** or to imprisonment for a period not exceeding six months 10 or to both **[such]** a fine and such imprisonment.”.

Substitution of section 16B of Act 63 of 1982, as substituted by section 8 of Act 63 of 1993

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

“Prescribing of qualifications” 15

16B. (1) Subject to the provisions of subsection (2), the Minister may from time to time, on the recommendation of the council, prescribe the qualifications obtained by virtue of examinations conducted by **[a university or other]** an educational institution or examining authority which, when held singly or conjointly with any other qualification, **[shall]** 20 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: Provided that if a professional board has been established in terms of section 10A(1), the council must first consult the relevant professional board before making a recommendation to the Minister relating to a qualification to be prescribed. 25

(2) No qualification obtained by virtue of examinations conducted by **[a university or other]** an educational institution or examining authority 30 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]** educational institution or examining 35 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 **[chiropractors, homeopaths or]** practitioners of allied health **[service]** professions within the Republic. 40

Amendment of section 16C of Act 63 of 1982, as substituted by section 9 of Act 63 of 1993 and amended by section 8 of Act 40 of 1995

17. Section 16C of the principal Act is hereby amended by—

- (a) the substitution for subsections (1) and (2) of the following subsections, 45 respectively:

(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, indicates a satisfactory standard of professional education, and may, subject to the provisions of **[subsections]** subsection (2) [and (3)] and section 15(1) 50 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: Provided that if a professional board 55 has been established in terms of section 10A(1), the council must first consult the relevant professional board before making a recommendation to the Minister relating to a qualification to be prescribed.

(2) A person **[referred to in]** who has been granted temporary registration in terms of subsection (1), 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—**

(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 service profession, as the case may be]** and

[(c)](b) subject to such conditions as the council may determine.”; and

(b) the deletion of subsection (5).

Amendment of section 16D of Act 63 of 1982, as inserted by section 6 of Act 108 of 1985

18. Section 16D of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Any person who prevents any person authorised in terms of subsection (1) from entering any institution or premises referred to in that subsection or who hinders him or her in the making therein or thereon of any investigation contemplated in that subsection, shall be guilty of an offence and liable on conviction to a fine **[not exceeding R100]** or to imprisonment for a period not exceeding six months or to both a fine and such imprisonment.”.

Amendment of section 16E of Act 63 of 1982, as substituted by section 10 of Act 63 of 1993.

19. 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 to which this Act applies, the council may, after consultation with the relevant professional board 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 substituted by section 12 of Act 63 of 1993

20. 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 19 in Act 63 of 1982

21. The following section is hereby inserted in the principal Act after section 18:

“Registration of interns

19. (1) Any person who has obtained a qualification which entitles him or her to register as a practitioner of an allied health profession under this Act after the Chiropractors, Homeopaths and Allied Health Service Professions Second Amendment Act, 2000, commences and who wishes to practise such profession in the Republic, shall apply to the council for registration in the prescribed manner.

(2) (a) A person who has applied for registration in terms of subsection (1) may, on the recommendation of the relevant professional board, be registered by the council as an intern.

(b) An intern must complete a prescribed internship programme before he or she may be registered as a practitioner of the profession in question.

(3) The council may, after consultation with the relevant professional board, register a person who has not yet graduated as a student intern and may permit such student to commence with a prescribed internship programme.

(4) No person may be registered by the council as a practitioner unless he or she has graduated and has completed the prescribed internship.

(5) The duration, requirements, conditions and rules pertaining to an internship are as prescribed.”.

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

22. Section 21 of the principal Act is hereby amended by—

(a) the addition in subsection (1) of the word “or” at the end of paragraph (f) and the addition to the said subsection of the following paragraph:

“(g) is unable for any reason to practise the profession for which he or she is registered in terms of this Act.”; and

(b) 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 substituted by section 14 of Act 63 of 1993

23. Section 23 of the principal Act 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 this Act, institute an inquiry into any written complaint, charge or allegation of **[improper or disgraceful]** unprofessional conduct against **[any]** such practitioner **[and]**.

(1A) The council may refer allegations of conduct referred to in subsection (1) to the relevant professional board and delegate to such board the power to investigate such complaint and to hold an inquiry in the prescribed manner.

(1B) When requested to hold an inquiry, the professional board in question must seek information from any person, including the practitioner against whom the complaint, charge or allegation was lodged and must 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 allegation 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.”; and

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

(3) If a professional board holding an inquiry under this section, finds the person charged guilty of **[improper or disgraceful]** unprofessional conduct or of conduct which in consideration of the profession in respect of which that person is registered, is **[improper or disgraceful]** unprofessional, it shall note its finding and inform such person thereof, and shall at the same time 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.

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

24. Section 24 of the principal Act is hereby amended by— 5
- (a) the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“Any practitioner who after the holding of an inquiry referred to in section 23(1) is found guilty of **[improper or disgraceful]** unprofessional conduct or of conduct which in consideration of any profession in respect of which that practitioner is registered, is **[improper or disgraceful]** unprofessional, shall be liable to one or other of the following penalties, namely—”;
 - (b) the substitution in subsection (1) for paragraph (d) of the following paragraph:

“(d) a fine not exceeding **[R10 000]** the prescribed amount.”;
 - (c) the substitution in subsection (3) for paragraph (a) of the following paragraph:

“(a) The council, or any committee of the council, or a professional board, where any such committee or professional board holds an inquiry under powers delegated to it by the council, 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 board 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 produce.”;
 - (d) the substitution in subsection (3)(c) for the proviso of the following proviso:

“: 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.”;
 - (e) the substitution for subsection (4) of the following subsection:

(4) The **[chairman]** chairperson of the council, where the council itself holds any such inquiry, or the **[chairman]** chairperson of any professional board, or 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, the professional board or the committee concerned, as the case may be, on matters of law, procedure or evidence.”;
 - (f) the substitution in subsection (7) for paragraph (a) of the following paragraph:

“(a) terminate any suspension imposed under subsection (1)(b) before the expiry of the specified period; and”;
 - (g) the substitution for subsection (9) of the following subsection:

(9) If any person registered in terms of this Act is alleged to be guilty of **[improper or disgraceful]** unprofessional conduct or conduct which, in consideration of the profession in respect of which that person is registered, is **[improper or disgraceful]** unprofessional, 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]** the prescribed amount shall be imposed on him or her, 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 or she is guilty of the said conduct and that he or she may pay the fine stipulated.”.

Amendment of section 29 of Act 63 of 1982, as substituted by section 18 of Act 63 of 1993

25. Section 29 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (b) 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 substituted by section 17 of Act 108 of 1985

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26. Section 30 of the principal Act is hereby amended by—

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

“the council shall cause the matter to be investigated and may, if it deems it necessary, refer it to the relevant professional board 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).”;
- (b) the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“If the council or professional board in question, 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 for subsection (6) of the following subsection:

“(6) Any practitioner who contravenes or fails to comply with any order made under subsection (2), shall be guilty of an offence and on conviction liable to a fine not exceeding [R100] the prescribed amount.”.

Substitution 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

25

27. The following section 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 or herself out, to be any such practitioner, whether or not purporting to be registered; or
 - (d) uses the title of acupuncturist, ayurvedic practitioner, chiropractor, homeopath, naturopath, osteopath, [herbalist or an allied health service profession] phytotherapist, therapeutic aromatherapist, therapeutic massage therapists, 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 or she holds the [qualifications] qualification of [a] acupuncturist, ayurveda practitioner, chiropractor, homeopath, naturopath, osteopath, [or herbalist or an allied health service profession] phytotherapist, therapeutic aromatherapist, therapeutic massage therapist, therapeutic reflexologist or of any other profession registered in terms of this Act,
- shall be guilty of an offence and on conviction liable to a fine [not exceeding R500] or to imprisonment for a period not exceeding six months or to both [that] a 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 or her;

- (b) a **[chiropractor or homeopath of]** practitioner in any allied health profession from 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]** for which the practitioner is registered in terms of this Act. 5
- (3) The council may, in addition to any penalty imposed in terms of this section, order that the cost of conducting the inquiry or such portion of the inquiry as the council may determine, shall be paid by the practitioner concerned. 10
- (4) The imposition of a penalty shall have the effect of a civil judgment of the magistrate's court of the district in which the disciplinary inquiry took place." 10

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

28. Section 32 of the principal Act is hereby amended by— 15
- (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), may not—
- (a) pretend, or by any means whatsoever hold himself or herself out, to be a medical practitioner, or make use of the title of medical practitioner or any other title or any name, description or symbol indicating, or calculated to lead persons to infer, that he or she holds the qualifications of a medical practitioner; or
- (b) perform any act which does not fall within his or her prescribed scope of practice.”; 20 25
- (b) the substitution for subsection (2) of the following subsection:
- “(2) A practitioner or student who contravenes any provision of subsection (1), shall be guilty of an offence and on conviction liable to a fine **[not exceeding R500]** or to imprisonment not exceeding six months or to both **[that]** a fine and **[that]** such imprisonment.”; and 30
- (c) the deletion of subsection (4). 30

Insertion of section 32A in Act 63 of 1982

29. The following section is hereby inserted after section 32 of the principal Act:

“Other offences, and penalties 35

32A. Any person who—

- (a) procures or attempts to procure for himself or herself or any other person registered under this Act, any certificate, order or prescription referred to in this Act by means of a false representation, whether verbally or in writing, or aids or abets any person in doing so; 40
- (b) makes or causes to be made any unauthorised entry or alteration in or removal from a register or certified copy thereof or extract therefrom or on any certificate issued under this Act;
- (c) wilfully destroys or damages or renders illegible or causes to be destroyed, damaged or rendered illegible any entry in the register or, without the permission of the holder thereof, any certificate issued under this Act; 45
- (d) forges or, knowing it to be forged, utters any document purporting to be a certificate issued under this Act;
- (e) pretends to be a person registered in terms of this Act; or 50
- (f) lies or offers to supply to any person not registered under this Act, the Health Professions Act, 1974 (Act No. 56 of 1974), or the Nursing Act, 1978 (Act No. 50 of 1978), any instrument or appliance which can be used, or is claimed to be effective, for the purpose of diagnosing, treating or preventing physical or mental defects, illnesses or deficiencies in man, knowing that such instrument or appliance will be used by such unregistered person for the purpose of performing for 55

gain an act which such unregistered person is in terms of the provisions of this Act or the Health Professions Act, 1974, or Nursing Act, 1978, prohibited from performing for gain, shall be guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding one year or to both a fine and such imprisonment.”. 5

Amendment of section 33 of Act 63 of 1982, as substituted by section 19 of Act 108 of 1985

30. Section 33 of the principal Act is hereby amended by the substitution for paragraph (c) of the following paragraph: 10
“(c) in respect of annual fees; and”.

Amendment of section 35 of Act 63 of 1982

31. Section 35 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection: 15
“(3) When any person is charged with a contravention of any provision of the [Medical, Dental and Supplementary] Health [Service] Professions Act, 1974 (Act No. 56 of 1974), and it is alleged that any act was at the commencement of this Act usually performed by persons who practise any profession to which this Act relates in the Republic, the onus of proving it shall be on the person alleging it.”. 20

Substitution of section 36 of Act 63 of 1982 20

32. The following section is hereby substituted for section 36 of the principal Act:

“Limitation of liability

36. The registrar or the council or a committee of the council or a professional board or any member or officer of the council or of a committee of the council or a member of a professional board shall not be 25
liable for any act done in good faith under this Act.”.

Amendment of section 38 of Act 63 of 1982, as amended by section 22 of Act 108 of 1985, section 27 of Act 94 of 1991 and section 21 of Act 63 of 1993

33. Section 38 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection: 30
“(4) Any regulation made under this section may prescribe a penalty for any contravention thereof or failure to comply therewith of a fine or imprisonment for a period not exceeding three months or both a fine and such imprisonment.”.

Amendment of section 38A of Act 63 of 1982, as inserted by section 23 of Act 108 of 1985 and amended by section 45 of Act 23 of 1993 and section 94 of Act 88 of 1996 35

34. Section 38A of the principal Act is hereby amended by—

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

“(2) Any practitioner who in respect of any professional services rendered by him or her claims payment from any person (in this section referred to as the patient) shall, subject to the provisions of [section 32 of the Medical Schemes Act, 1967 (Act No. 72 of 1967)] section 59 of the Medical Schemes Act, 1998 (Act No. 131 of 1998), furnish the patient with a detailed account within a reasonable period.”; and 40

(b) the substitution in subsection (3) for paragraph (d) of the following paragraph: 45
“(d) The council may, after consultation with the relevant professional board, from time to time determine and publish the fees used by the council as a norm for the determination of amounts contemplated in paragraph (a).”.

Amendment of section 38B of Act 63 of 1982, as inserted by section 22 of Act 63 of 1993

35. Section 38B of the principal Act is hereby amended by—

- (a) the substitution in subsection (1) for paragraph (b) of the following paragraph: 5
 “(b) by any penalty imposed on him or her under section 24; and
- (b) the substitution for subsection (2) of the following subsection:
 - “(2) Any appeal committee referred to in subsection (1), [shall] may 10
 be appointed by the Minister and shall consist of—
 - (a) a [magistrate with no fewer than ten years experience as a 10
 magistrate,] person who is legally qualified and who has practised 10
 in the field of law for a period of at least ten years who shall be the 10
 [chairman] chairperson; and
 - (b) two practitioners who practise the same profession as the appellant 15
 concerned, who have no direct interest in the affairs of the appellant,
 [or] who are not in the employment of the appellant and who are not 15
 members of the council or professional board concerned.”.

Substitution of section 41 of Act 63 of 1982

36. The following section is hereby substituted for section 41 of the principal Act:

**“Interpretation of laws in respect of certain medicine men and 20
herbalists**

41. The provisions of this Act and the [Medical, Dental and 25
Supplementary] Health [Service] Professions Act, 1974 (Act No. 56 of 1974), shall not be construed as derogating from the right which a [medicine man or] herbalist contemplated in the Code of Zulu Law may have to practise his or her profession.”.

Substitution of section 41A of Act 63 of 1982, as inserted by section 9 of Act 40 of 1995

37. The following section is hereby substituted for section 41A of the principal Act:

**“Abolition of Chiropractors, Homeopaths and Allied Health Service 30
Professions Interim Council, and transitional arrangements**

41A. (1) Notwithstanding section 5(6), the Chiropractors, Homeopaths and Allied Health Service Professions Interim Council (in this section referred to as “the Interim Council”) shall cease to exist on the day immediately preceding the date of the first meeting of the council.

(2) All rights, obligations, assets and liabilities acquired or incurred by 35
the Interim Council shall immediately vest in the council and the council shall be deemed to have acquired or incurred such rights, obligations, assets and liabilities in terms of this Act.”.

Substitution of word in Act 63 of 1982

38. The principal Act is hereby amended by the substitution for the word “chairman”, 40
wherever it occurs, of the word “chairperson”.

Substitution of section 43 of Act 63 of 1982, as substituted by section 24 of Act 63 of 1993

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

“Short title 45

43. This Act shall be called the [Chiropractors, Homeopaths and] Allied Health [Service] Professions Act, 1982.”.

Substitution of long title of Act 63 of 1982, as substituted by section 10 of Act 40 of 1995

40. 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 chiropractor and homeopath and]** allied health professions, and for that purpose to establish **[a Chiropractors, Homeopaths and] an** Allied Health **[Service]** Professions **[Interim]** Council of South Africa and to determine its functions; and to provide for matters connected therewith.”.

Savings and transitional provisions 10

40. (1) In this section, “Interim Council” means the Chiropractors, Homeopaths and Allied Health Service Professions Interim Council established by section 2 of the principal Act as it existed immediately before this Act takes effect.

(2) Any proclamation, notice, regulation, authorisation, rule or order issued, made, granted or done in terms of the principal Act, or deemed to have been issued, made, granted or done in terms of the principal Act, as it existed immediately before this Act takes effect, remains in force until withdrawn, cancelled or repealed by the Allied Health Professions Council of South Africa, established by section 2 of the principal Act (in this section referred to as “the council”). 15

(3) Any inquiry into alleged improper or disgraceful conduct by a chiropractor, homeopath or person who practises in an allied health service profession, including any preliminary investigation undertaken to determine whether *prima facie* evidence exists which would justify such inquiry, and which has not been concluded at the date of the first meeting of the council, must be continued and concluded by the council. 20

(4) The council may institute and conclude disciplinary proceedings against any person who, at any time before the first meeting of the council, is alleged to have committed an act which constituted unprofessional conduct. 25

(5) Any person employed by the Interim Council immediately before the date on which the Interim Council is abolished in terms of section 41A of the principal Act, must be regarded as having been appointed by the council in terms of section 11 of the principal Act. 30

(6) The person who was the registrar of the Interim Council immediately before this Act takes effect, continues to hold office and to perform the functions assigned to him or her in terms of the principal Act, as well as such functions as may be or may have been assigned to him or her by the Interim Council or the council, until a registrar has been appointed by the council in terms of section 11 of the principal Act. 35

Short title and commencement

41. This Act is called the Chiropractors, Homeopaths and Allied Health Service Professions Second Amendment Act, 2000, and takes effect on a date fixed by the President by proclamation in the *Gazette*. 40

**MEMORANDUM ON THE OBJECTS OF THE CHIROPRACTORS,
HOMEOPATHS AND ALLIED HEALTH SERVICE PROFESSIONS
SECOND AMENDMENT BILL, 2000**

1. The Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982 (Act No. 63 of 1982) ("the Act"), was amended in 1995 to establish the Chiropractors, Homeopaths and Allied Health Service Professions Interim Council ("the Interim Council"). The term of office of the members of the Interim Council ends in February 2001. The main objects of the Interim Council are to—

- (a) make recommendations to the Minister of Health on the constitution of a new council within a period not exceeding 36 months from the date of commencement of the Chiropractors, Homeopaths and Allied Health Service Professions Amendment Act, 1995 (Act No. 40 of 1995); and
- (b) advise the Minister on the amendment and adaptation of the Act so as to place greater emphasis on professional practice, democracy, transparency, equity, accessibility and community involvement.

Since the abovementioned period is nearing its end, it is proposed that the Act be amended by abolishing the Interim Council and establishing a new council to be known as the Allied Health Professions Council of South Africa.

2. The Bill proposes several other amendments to the Act, the most important of which are the following:

2.1.1 The Act currently applies to the professions of ayurveda, chiropractic, herbalism, homoeopathy, naturopathy and osteopathy. With the exception of the professions of chiropractic and homoeopathy, these professions are not listed in the definition of "allied health service profession" in section 1 of the Act. It was felt at the time that the demand for these professions did not warrant registers under the Act and consequently the registers for herbalism, naturopathy and osteopathy were then closed. However, there has recently been a world-wide trend away from allopathy and towards alternative more "natural" healing methods. As a result, these professions have grown in recognition and stature, with a corresponding growth in practitioner and patient numbers. The demand for official recognition of these professions has grown, leading to the need to—

- (a) establish academic standards and criteria for registration and the right to practise such professions;
- (b) uphold ethical standards and to protect the public; and
- (c) negotiate medical aid scheme recognition.

2.1.2 The professional associations for the professions resorting under the closed registers "naturopathy", "osteopathy" and "phytotherapy" (previously "herbalism") approached the Interim Council with the request that these registers be re-opened. At the same time the professional associations for Chinese medicine and acupuncture, therapeutic aromatherapy, therapeutic massage therapy and therapeutic reflexology applied to the Interim Council for the Act to be amended to include registers for these professions. The Bill seeks to achieve that.

2.2 It is proposed that the new council consist of 16 members. Ten members are to be elected by various professions to represent such professions and six members will be appointed by the Minister. The six members will consist of one person appointed on account of his or her knowledge of the law, one person to represent the Department of Health and four persons who are not registered under the Act, to represent the community.

2.3 The Bill also seeks to provide for the establishment of professional boards and for matters relating to the responsibility, accountability, democratisation and transparency of the new council and its professional boards.

2.4 The Bill further proposes that members of certain professions (defined in section 1 of the Act as "practitioners"), subject to the provisions of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), be allowed to personally compound and dispense medicines prescribed by themselves or by any other practitioner with whom they are in partnership or with whom they are associated as principal, assistant or *locum tenens*, for use by a patient under treatment by such practitioners or such other practitioner.

2.5 The Act does not currently provide for undergraduate or graduate internship. A new section 19 is proposed which deals with the registration of interns.

2.6 It is proposed that the short title of the Act be amended and that the Act be called the Allied Health Professions Act.

3. FINANCIAL IMPLICATIONS FOR STATE

None.

4. BODIES CONSULTED

The following bodies were consulted:

- * Acupuncture Association of the Western Cape.
- * Aromatherapy Society of South Africa.
- * Aryan Benevolent Home Council.
- * Association of Aromatherapists South Africa.
- * Ayurvedic Medical Association.
- * Ayurveda Practitioners Association of South Africa.
- * Chinese Medicine and Acupuncture Association.
- * Chiropractic Association of South Africa.
- * Confederation of Complementary Health Associations of South Africa.
- * Ethnomedicine and Phytotherapy Practitioners Association of South Africa.
- * Herb Association of South Africa.
- * Holistic Massage Practitioners Association.
- * Homoeopathic Medical Association of South Africa.
- * Homoeopathic Practitioners Association of South Africa.
- * Industrial Training Board for Hairdressers and Cosmetologists.
- * International Association of Health and Beauty.
- * Massage Therapy Association of South Africa.
- * Osteopathic Association of South Africa.
- * Society of Chinese Traditional Medicine and Acupuncture.
- * South African Association of Herbalism Practitioners.
- * South African Association of Professional Acupuncturists.
- * South African Ayurvedic Medicine Association.
- * South African Beauty Association.
- * South African Beauty Schools Association.
- * South African Branch of the International Acupuncture Association.
- * South African Complementary Medicines Association.
- * South African Foreign Qualified Doctors Association.
- * South African Institute of Health and Skincare Professionals.
- * South African Medical Acupuncturists Association.
- * South African Medical Herbalists Association.
- * South African Naturopathy Association.
- * South African Herbalists and Naturopaths Association.
- * South African Reflexology Society.
- * South African Remedial Yoga Teachers Association.
- * South African Vitalistic Chiropractors Association.
- * Technikon Natal.
- * Technikon Witwatersrand.
- * The Healing Association of South Africa.
- * The National Reflexology Association.
- * The Natural Therapeutics Practitioners Association of South Africa.
- * The South African Tibb Association.

5. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Health are of the opinion that this Bill must be dealt with in accordance with the procedure prescribed by section 76(1) or (2) of the Constitution since it falls within a functional area listed in Schedule 4 of the Constitution, namely “Health services”.