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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 948.

9 May 1980.

No. 948.

9 Mei 1980.

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. 43 of 1980: Medical, Dental and Supplementary Health Service Professions Amendment Act, 1980.

No. 43 van 1980: Wysigingswet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensbetroepe, 1980.

MEDICAL, DENTAL AND SUPPLEMENTARY HEALTH SERVICE
PROFESSIONS AMENDMENT ACT, 1980

Act No. 43, 1980

GENERAL EXPLANATORY NOTE:

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

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Medical, Dental and Supplementary Health Service Professions Act, 1974, so as to do away with the prescribing of qualifications obtained by virtue of examinations conducted by any examining authority situated outside the Republic, entitling any holder thereof to registration under the said Act as a psychologist; to provide for the temporary registration, for training purposes, in respect of supplementary health service professions, of persons not permanently resident within the Republic; to make new provision for the registration with the South African Medical and Dental Council of persons practising supplementary health service professions; to prohibit the use of certain names by certain unregistered persons; to bring certain expressions in the said Act into line with others; to further regulate the effect of tariffs of fees for medical practitioners, dentists and psychologists and in respect of supplementary health service professions; to effect a change in relation to the power to make regulations; and to further define the powers of the Minister of Health; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 28 April 1980.)

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

1. Section 24 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (hereinafter referred to as the principal Act), is hereby amended by the substitution for subsection (2) of the following subsection: Amendment of section 24 of Act 56 of 1974.

“(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—

- 10 (a) such qualification entitles the holder thereof to practise as a medical practitioner or dentist **[or psychologist]**, as the case may be, in the country or state in which such university or other examining authority is situated;
- 15 (b) by the laws of that country or state, persons holding qualifications granted after examinations in the Republic and entitling them to practise in the Republic as medical practitioners or dentists **[or psychologists]**, as the case may be, are permitted without further examination to practise as medical practitioners or dentists **[or psychologists]**, as the case may be, in that country or state; and
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- 5 (c) the council is satisfied that possession of such qualification indicates a standard of professional education not lower than that prescribed by the council for medical practitioners or dentists **[or psychologists]**, as the case may be, within the Republic.”

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

Substitution of
section 29 of
Act 56 of 1974.

10 “Regis-
tration
of certain
persons so
as to enable
them to give
educational
demon-
strations.

15

29. (1) For the purpose of promoting medical, dental or psychological education, or training for the practising of a supplementary health service profession, the council may, notwithstanding the provisions of this Act, register any person not permanently resident within the Republic, as a medical practitioner, dentist or psychologist or in respect of a supplementary health service profession for such period as the council may determine.

20

(2) Any person registered in terms of subsection (1) may give demonstrations, at institutions approved for that purpose by the council, of, as the case may be, medical, dental or psychological techniques or techniques in respect of a supplementary health service profession.”

3. Section 33 of the principal Act is hereby amended—

Amendment of
section 33 of
Act 56 of 1974.

25

(a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

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“When a professional board has been established under section 15 in respect of any supplementary health service profession, the council shall, subject to such restrictions in respect of his professional activities as the council may determine, register in a register kept separately from the register kept under section 32 in respect of such profession, the name of any person who—”;

35

(b) by the substitution for subparagraph (i) of paragraph (a) of subsection (2) of the following subparagraph:

40

“(i) was engaged in the practice of such profession in the Republic or in a territory which formerly formed part of the Republic for a continuous period of not less than five years immediately prior to the date referred to in paragraph (c);”;

45

(c) by the deletion of paragraph (b) of subsection (2); and

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(d) by the addition of the following subsections:

“(3) The council may conduct an oral or practical examination for a person referred to in subsection (2) in order to determine the restrictions referred to in that subsection in respect of his professional activities.

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(4) Any person registered under subsection (2) in respect of a supplementary health service profession shall only be entitled to practise that profession subject to—

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(a) such restrictions in respect of his professional activities; and
(b) the use of such name, title and description in respect of his profession, as the council may determine.

(5) The council may allow a person referred to in subsection (2) to sit for an examination referred to in section 32B (2), and if such person passes such examination to the satisfaction of the council, it shall exempt him from all restrictions imposed in respect of him under subsection (2).”

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4. The following section is hereby substituted for section 34 of the principal Act: Substitution of section 34 of Act 56 of 1974.

“Regis-
tration a
prerequisite
5 for practising
a profession
in respect of
which a pro-
fessional
board has
10 been institu-
ted.”

34. (1) Subject to the provisions of sections 33 (2) (c) and 39, no person shall practise for gain within the Republic a supplementary health service profession the scope of which has been defined by the Minister in terms of section 33 (1), unless he is registered in terms of this Act in respect of such profession.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and on conviction liable to the penalties mentioned in section 39.”

5. The following section is hereby substituted for section 39 of the principal Act: Substitution of section 39 of Act 56 of 1974.

15 “Prohibition
of perform-
ance for
gain of cer-
tain acts
deemed to
20 pertain to a
supplemen-
tary health
service
profession by
unregistered
persons.”

39. (1) No person shall **within any area declared under section 34 to be a prescribed area in respect of any supplementary health service profession** perform for gain any act deemed under section 33 to be an act pertaining to **that profession** any supplementary health service profession unless he—

(a) is registered under section 32 in respect of such profession;

(b) (i) is registered under section 32 in respect of any other profession to which also such act is under section 33 deemed to pertain; or
(ii) practises another supplementary health service profession in respect of which the registrar in terms of section 32 keeps a register and such act is deemed to be an act which pertains to such profession;

(c) is a medical practitioner and such act is an act which also pertains to the profession of a medical practitioner;

(d) is a dentist and such act is an act which also pertains to the profession of a dentist; or

(e) is registered or enrolled as a nurse under the Nursing Act, **1957 (Act No. 69 of 1957)** 1978 (Act No. 50 of 1978), and such act is an act which also pertains to the profession of a nurse.

(2) Any person contravening the provisions of subsection (1) shall be guilty of an offence and on conviction liable to a fine not exceeding R500 or to imprisonment for a period not exceeding 12 months, or to both such fine and such imprisonment.”

6. Section 40 of the principal Act is hereby amended—

(a) by the addition of the word “or” at the end of paragraph (b); and

50 (b) by the insertion of the following paragraph after paragraph (b):

“(c) uses any name declared by regulation to be a name which may not be used.”

Amendment of section 40 of Act 56 of 1974, as substituted by section 7 of Act 33 of 1976.

7. Section 48 of the principal Act is hereby amended—

55 (a) by the substitution in subsection (1) in the Afrikaans text for the words preceding the proviso of the following words:

“’n Beroepsraad ingevolge die bepalings van artikel 15 ingestel, kan ondersoek instel na ’n klagte, beskuldiging of bewering teen ’n persoon wat ingevolge die

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Amendment of section 48 of Act 56 of 1974.

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5 bepalinge van hierdie Wet geregistreer is ten opsigte van die beroep waarvoor so 'n beroepsraad ingestel is, van **[onbehoorlike] onbetaamlike of skandelijke** gedrag of gedrag wat, indien die persoon se beroep in aanmerking geneem word, **[onbehoorlik] onbetaamlik of skandelik** is:"

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

10 "(4) Indien die beroepsraad wat 'n ondersoek kragtens hierdie artikel hou, die aangeklaagde persoon skuldig bevind aan **[onbehoorlike] onbetaamlike** of skandelijke gedrag of gedrag wat, indien daardie persoon se beroep in aanmerking geneem word, **[skandelik of onbehoorlik] onbetaamlik of skandelik** is, teken hy sy bevinding aan en verwittig hy sodanige persoon daarvan en verwittig hy hom terselfdertyd van die straf die oplegging waarvan hy voornemens is om by die raad aan te beveel en lê hy, voor die eersvolgende vergadering van die raad, aan die raad die notule van die verrigtinge by sodanige ondersoek, tesame met 'n aanbeveling aangaande 'n gepaste straf, voor.";

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

25 "(b) that the finding is correct, it may impose upon the person concerned any penalty mentioned in section 42 (1) **[and may in lieu of or in addition to any such penalty impose a fine not exceeding fifty rand]**."; and

(d) by the deletion of subsection (7).

30 8. Section 53A of the principal Act is hereby amended—

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

Amendment of section 53A of Act 56 of 1974, as inserted by section 10 of Act 52 of 1978.

35 "(4) (a) (i) Any tariff of fees determined under subsection (1) and any amendment thereof under subsection (5), shall not be of force and effect until approved by the Minister and published by the registrar in the Gazette.

40 (ii) If a tariff of fees has been submitted to the Minister for the purposes of subparagraph (i), he shall within three months thereafter notify the registrar of his decision in regard thereto.

45 (b) Subject to the provisions of section 29 (1) of the Medical Schemes Act, 1967 (Act No. 72 of 1967), a tariff of fees published in terms of paragraph (a), shall be a tariff of maximum fees which may be charged for services rendered to members and dependants of members of registered medical schemes.";

50 (b) by the substitution for paragraph (b) of subsection (6) of the following paragraph:

"(b) Subject to the provisions of section 29 (1) of the Medical Schemes Act, 1967—

55 (i) a tariff of fees and any amendment thereof published under subsection (4) shall as from the date of such publication, or a date, if any, fixed by the council for the purpose and

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specified in such publication, be binding on every person practising the profession to which such tariff of fees or amendment relates;

- 5 (ii) a tariff of fees or any amendment thereof
published by the Minister in the *Gazette* in
terms of section 30 of the Medical Schemes
Act, 1967, and which was in force immedi-
ately prior to the commencement of the
10 Medical, Dental and Supplementary Health
Service Professions Amendment Act, 1980,
shall with effect from the date of commence-
ment of the latter Act be binding on every
15 person practising the profession to which such
tariff of fees relates.

9. Section 61 of the principal Act is hereby amended—

- (a) by the substitution in paragraph (c) of subsection (1) for
the words preceding the proviso of the following words:
20 “the allowances which may be paid to members or
to members of professional boards established in
terms of the provisions of section 15 or to members
of committees of the council when engaged on
service of the council or of such professional
boards.”;
- (b) by the insertion after paragraph (m) of subsection (1) of
the following paragraph:
25 “(mA) the names which may in terms of section 40 (c)
not be used.”; and
- (c) by the insertion of the following subsection after
30 subsection (2):
“(2A) (a) If the Minister does not concur in any
decision or determination by the council in terms of
section 53A, regarding an increase in fees specified
in a tariff of fees, the Minister shall refer the
35 decision or determination back to the council for
reconsideration by the council after consultation
with the Association or body referred to in section
53A (2).
- (b) If the council does not within a period of six
40 months after the Minister has in terms of paragraph
(a) referred such a decision or determination back
to the council, submit to the Minister for approval a
decision or determination regarding a tariff of fees
45 acceptable to him, the Minister may amend or set
aside the decision or determination of the council
mentioned in paragraph (a), and in the case of such
setting aside substitute for the decision or deter-
mination of the council a new decision or deter-
50 mination regarding a tariff of fees effecting an
increase in the relevant fees, and in which event the
said amended or new decision or determination
shall be deemed to be the decision or determination
of the council.”.

Amendment of
section 61 of
Act 56 of 1974,
as amended by
section 10 of
Act 33 of 1976
and section 18 of
Act 36 of 1977.

10. This Act shall be called the Medical, Dental and Short title.
55 Supplementary Health Service Professions Amendment Act, 1980.