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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 895.

2 Mei 1984

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

⇒. 58 van 1984: Wysigingswet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensberoep, 1984.

No. 895.

2 May 1984

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

No. 58 of 1984: Medical, Dental and Supplementary Health Service Professions Amendment Act, 1984.

MEDICAL, DENTAL AND SUPPLEMENTARY HEALTH SERVICE
PROFESSIONS AMENDMENT ACT, 1984

Act No. 58, 1984

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 replace certain obsolete expressions and references; to make provision for the designation of additional members of the executive committee of the South African Medical and Dental Council; to provide for the investigation of cases of alleged improper or disgraceful conduct by persons registered in terms of the said Act; to further regulate the dispensing of medicine by a medical practitioner or dentist; and to do away with the determination by the said Council of fees for medical services rendered to members or dependants of members of registered medical schemes; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)
(Assented to 17 April 1984.)*

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

1. Section 1 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (hereinafter referred to as the principal Act), is hereby amended—
- 5 (a) by the substitution for the definition of "Minister" of the following definition:
"Minister" means the Minister of Health and Welfare;"; and
- 10 (b) by the deletion of the definition of "tariff of fees".
2. Section 5 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
15 "(a) the **[Secretary for Health] Director-general: Health and Welfare;**"; and
- (b) by the substitution for subsection (2) of the following subsection:
20 "(2) The member referred to in subsection (1) (a) may designate an officer of the Department of Health and Welfare who is a medical practitioner, to act in his stead as an alternate member of the council."
3. Section 10 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:
25 "(1) There shall be an executive committee of the council consisting of the president, the vice-president, the **[Secretary for Health] Director-General: Health and Welfare** (or, in his absence, the officer designated in terms of section 5 (2)) and not less than five other members of the council designated by the council, of whom not less than three shall
30 be medical practitioners, one shall be a dentist and one shall be a member appointed under section 5 (1) (b) (iv)."

Amendment of section 1 of Act 56 of 1974, as amended by section 1 of Act 33 of 1976, section 12 of Act 36 of 1977, section 1 of Act 52 of 1978 and section 1 of Act 38 of 1982.

Amendment of section 5 of Act 56 of 1974, as amended by section 2 of Act 52 of 1978.

Amendment of section 10 of Act 56 of 1974.

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4. Section 11 of the principal Act is hereby amended by the deletion of subsection (2A).

Amendment of section 11 of Act 56 of 1974, as amended by section 3 of Act 52 of 1978.

5. The following section is hereby inserted in the principal Act after section 41:

Insertion of section 41A in Act 56 of 1974.

5 "Manner in which certain investigations may be instituted.

41A. (1) The registrar may with the approval of the president appoint an officer of the council as investigating officer for the purposes of this section.

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(2) If the registrar deems it necessary, he may with the approval of the president and on such conditions as the council may determine, appoint any person, other than a member of the council or of a professional board, who is not in the full-time employment of the council as investigating officer for a particular investigation, or to assist the investigating officer contemplated in subsection (1) with a particular investigation.

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(3) A person appointed in terms of subsection (2) shall, for the purpose of the investigation in question, have the same powers and duties as the investigating officer contemplated in subsection (1).

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(4) The registrar shall issue to every person appointed under subsection (1) or (2) a certificate to the effect that he has so been appointed, and, in the case of a person appointed for, or to assist with, a particular investigation, that he has been appointed for such investigation, and in the exercise of his powers and the carrying out of his duties that person shall on demand produce such certificate.

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(5) If the registrar deems it necessary for the achievement of the objects of this Act, he may institute or cause to be instituted an investigation—

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(a) into an alleged contravention of, or failure to comply with, any provision of this Act;

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(b) in order to determine if any provision of this Act applies to a registered person;

(c) into a charge, complaint or allegation of improper or disgraceful conduct by a registered person;

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(d) into the affairs or conduct of a registered person, if requested to do so by a person by reason of allegations confirmed upon oath.

(6) The registrar or an investigating officer who carries out an investigation in terms of this section may—

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(a) at any time reasonable for the proper performance of the duty, with the approval of the president and without prior notice enter upon, enter and search any premises, and carry out such an investigation and make such enquiries as he may deem necessary;

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(b) while he is on the premises or at any other time request any person found on the premises to immediately or at a time and place determined by the registrar or investigating officer—

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(i) produce to him any book, document or thing relating to, or which he on reasonable grounds believes to relate to, the matter which he is investigating, and which is or was on the premises, or in the possession or custody or under the control of that person or his employee or agent;

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(ii) furnish such explanations to him as he may require in respect of any such book, document or thing;

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- 5 (c) at any time and at any place request any person who has or is suspected on reasonable grounds of having in his possession or custody or under his control any book, document or thing relating to the matter which he is investigating, to produce it immediately or at a time and place determined by the registrar or investigating officer, examine such book, document or thing, make extracts from and copies of the book or document, and request any person to furnish such explanations to him as he may require in respect of any entry in that book or document;
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- 15 (d) seize any book, document or thing which in his opinion may afford evidence of any alleged contravention of, or failure to comply with, any provision of this Act, or of any alleged improper or disgraceful conduct contemplated in this Act, and retain that book, document or thing until any criminal or other proceedings in terms of this Act have been disposed of or until it has been decided not to proceed with any contemplated proceedings.
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- 25 (7) The registrar or investigating officer shall give a receipt to the person to whose affairs any book or document seized under subsection (6) relates, and that person may make copies thereof and extracts therefrom during office hours and under such supervision and on such conditions as the registrar or investigating officer may determine.
- 30 (8) (a) The registrar or an investigating officer who carries out an investigation under this section, shall compile a report of the investigation, and a report compiled by an investigating officer shall be submitted to the registrar.
- 35 (b) (i) If such a report reveals *prima facie* evidence of improper or disgraceful conduct contemplated in this Act and no complaint, charge or allegation regarding the conduct in question has been made for the purpose of an inquiry in terms of section 41 or 48, such report shall be deemed to be a complaint made for that purpose, and the registrar shall serve a copy thereof on the registered person concerned.
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- 45 (ii) If such a report reveals *prima facie* evidence which in the opinion of the president makes it desirable that an inquiry in terms of section 51 be instituted, the registrar shall serve a copy thereof on the registered person concerned.
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- 55 (c) To the extent that such a report contains statements of witnesses which would have been admissible as oral evidence at an inquiry in terms of section 41, 48 or 51, the provisions of section 213 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), shall apply *mutatis mutandis* in respect of those statements at such an inquiry.
- 60 (9) (a) A person who carries out or assists with the carrying out of an investigation in terms of this section, shall keep or assist in preserving secrecy in respect of all facts which come to his notice in the performance of his functions, and shall not disclose any such fact to any person except the registrar, the president, the council, the professional board concerned, or the public prosecutor concerned in the case of an offence in terms of this Act, or by order of a court.
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- 5 (b) Notwithstanding the provisions of paragraph (a), no personal particulars regarding a patient shall be disclosed to any person except by order of a court or with the consent of the presiding officer at an inquiry contemplated in section 41, 48 or 51.
- 10 (10) (a) If the council at an inquiry in terms of section 41, 48 or 51, or in a case referred to the council by the registrar, is satisfied that the person contemplated in subsection (5) (d) had no reasonable grounds to ask for an investigation, the council may order that the costs of the investigation by the registrar or the investigating officer concerned, or such portion thereof as the council may determine, be paid by that person to the council.
- 15 (b) Such an order shall be executed as if it were a judgment in a civil case in a magistrate's court.
- 20 (11) Any person who—
- (a) refuses or neglects to produce any book, document or thing, or furnish any explanation to any person who is in terms of this section authorized to ask therefor, or who furnishes an explanation knowing it to be false;
- 25 (b) hinders or obstructs the registrar or an investigating officer in the exercise of his powers or the carrying out of his duties;
- 30 (c) pretends that he is the registrar or an investigating officer;
- (d) contravenes a provision of subsection (9), shall be guilty of an offence and liable on conviction—
- 35 (i) in the case of a contravention contemplated in paragraph (a), (b) or (c), to a fine not exceeding R500 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment;
- 40 (ii) in the case of a contravention contemplated in paragraph (d), to a fine not exceeding R1 500 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.
- 45 (12) The provisions of this section shall be without prejudice to the power of any authority to institute an investigation into any alleged contravention of, or failure to comply with, any provision of this Act."

6. The following section is hereby substituted for section 52 of the principal Act:

Substitution of section 52 of Act 56 of 1974.

- 50 "Medical practitioners and dentists may dispense medicines.
- 55 52. (1) (a) Every medical practitioner or dentist whose name has been entered in the register contemplated in subsection (2) shall, on such conditions as the council may determine in general or in a particular case, be entitled to personally compound or dispense medicines prescribed by himself or by any other medical practitioner or dentist with whom he is in partnership or with whom he is associated as principal or assistant or *locum tenens*, for use by a patient under treatment of such medical practitioner or dentist or of such other medical practitioner or dentist: Provided that he shall not be entitled to keep an open shop or pharmacy.
- 60 (b) The council may, on such conditions as it may determine, exempt any medical practitioner or dentist from the requirement of registration contemplated in paragraph (a), and may, after an investigation, withdraw such exemption.
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5 (2) The registrar shall keep a register in which he shall enter, at the direction of the council, the name and such other particulars as the council may determine of a medical practitioner or dentist—
 10 (a) who within three months after the commencement of the Medical, Dental and Supplementary Health Service Professions Amendment Act, 1984, submits proof to the satisfaction of the registrar that at such commencement he compounded or dispensed medicine as contemplated in subsection (1) (a) in the practice of his profession; or
 15 (b) who informs the registrar in the prescribed manner of his intention to compound or dispense medicine in the practice of his profession as contemplated in subsection (1) (a).
 20 (3) The council may, after an investigation, direct that the name of any person be removed from the register contemplated in subsection (2), or prohibit him for a specified period from making use of the right contemplated in subsection (1).
 (4) The council may determine fees to be paid for the entering of a name in the register contemplated in subsection (2).”

25 7. The following section is hereby substituted for section 52A of the principal Act:

Substitution of section 52A of Act 56 of 1974, as inserted by section 17 of Act 36 of 1977.

“Authority for supply in certain circumstances of certain medicines by certain registered persons in accordance with directions of medical practitioner.
 30 52A. The [Secretary for Health] council may, if [he] it is of the opinion that the consulting rooms of a medical practitioner contemplated in section 52 (1) (a) are not situated within a reasonable distance of a retail pharmacy, grant authority, subject to such conditions as [he] it may deem fit to impose, for the supply by any person who is in the employment of such medical practitioner and who is registered [or enrolled] as a nurse under the Nursing Act, [1957 (Act No. 69 of 1957)] 1978 (Act No. 50 of 1978), of any medicine mentioned in Schedule 1, 2, 3 or 4 to the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), to any person under the treatment of such medical practitioner: Provided that such supply shall take place in accordance with the directions of such medical practitioner.”
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8. Section 53A of the principal Act is hereby repealed.

Repeal of section 53A of Act 56 of 1974, as inserted by section 10 of Act 52 of 1978 and amended by section 8 of Act 43 of 1980 and section 1 of Act 66 of 1981.

9. Section 61 of the principal Act is hereby amended by the 45 deletion of subsection (2A).

Amendment of section 61 of Act 56 of 1974, as amended by section 10 of Act 33 of 1976, section 18 of Act 36 of 1977, section 9 of Act 43 of 1980 and section 4 of Act 38 of 1982.

10. This Act shall be called the Medical, Dental and Supplementary Health Service Professions Amendment Act, 1984, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

Short title and commencement.