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DEPARTMENT OF THE PRIME MINISTER

No. 578.

7 April 1976.

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

No. 33 of 1976: Medical, Dental and Supplementary Health Service Professions Amendment Act, 1976.

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 578.

7 April 1976.

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

No. 33 van 1976: Wysigingswet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensberoep, 1976.

MEDICAL, DENTAL AND SUPPLEMENTARY HEALTH
SERVICE PROFESSIONS AMENDMENT ACT, 1976.

Act No. 33, 1976

ACT

To amend the Medical, Dental and Supplementary Health Service Professions Act, 1974, so as to provide for the registration of certain interns and students; to abolish the right of appeal to the Supreme Court of South Africa against decisions or findings of, or penalties imposed by, the South African Medical and Dental Council; to provide for the registration of persons being trained for the practising of supplementary health service professions; to extend the provisions regarding offences and disciplinary steps; and further to define the power to make regulations; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 19 March 1976.)

BE IT ENACTED by the State President, the Senate 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 by the insertion after the definition of "intern" of the following definition:

Amendment of section 1 of Act 56 of 1974.

"'intern-psychologist' means a person registered as such under this Act;"

2. Section 17 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

Amendment of section 17 of Act 56 of 1974, as amended by section 47 of Act 57 of 1975.

"(a) the profession of a medical practitioner, dentist, psychologist or as an intern or an intern-psychologist; or"

3. Section 18 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

Amendment of section 18 of Act 56 of 1974, as amended by section 48 of Act 57 of 1975.

"(1) The registrar shall keep separate registers in respect of medical practitioners, dentists, interns, medical students, dental students, psychologists, intern-psychologists and psychology students and shall, on the instructions of the council, enter in the appropriate register the name, address, qualifications, date of initial registration and such other particulars (including, in the case of medical practitioners, dentists and psychologists, name of speciality, if any, and in the case of psychologists also the name of their category) as the council may determine, of every person whose application for registration in terms of section 17 (2) has been granted."

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4. Section 20 of the principal Act is hereby repealed.

Repeal of section 20 of Act 56 of 1974.

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

Substitution of section 32 of Act 56 of 1974.

“Registration of persons practising supplementary health service professions, or having been or being trained for such practising, and examinations.

32. (1) The registrar shall, as from time to time directed by the council, establish and keep registers in which shall, subject to the provisions of section 33 (2), be entered particulars in respect of categories of persons who, to the satisfaction of the council, are being trained with a view to qualifying them for the practising of, or have been trained and have passed examinations with a view to qualifying them for the practising of, or of persons who are practising, any profession, other than the profession of a medical practitioner, dentist, intern, psychologist, intern-psychologist or any profession to which the provisions of the Nursing Act, 1957, or the Pharmacy Act, 1974, are applicable, which has as its object the treatment, prevention or relief of physical or mental defects, illnesses or deficiencies in man, and the council may conduct examinations for such persons and may make rules prescribing the fee for registration and providing for the recognition by the council of qualifications which may be accepted for registration in lieu of the passing of any examination prescribed by the council, and the conditions of acceptance.

(2) The council may, for good and sufficient reason, cancel any certificate issued to, or remove from the register the name of, any person registered under this section.

(3) The council shall not under the provisions of this section remove the name of any person from any register kept under this section in respect of any profession, unless the council has consulted with the professional board established in respect of such profession, if a professional board has been established in respect of such profession.”

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

Substitution of section 37 of Act 56 of 1974.

“Penalties for practising as a psychologist or as an intern-psychologist, or for performing certain other acts, while unregistered.

37. (1) Subject to the provisions of subsections (4) and (6) of this section and section 36, any person, not registered as a psychologist or as an intern-psychologist, who—

(a) for gain, practises as a psychologist (whether or not purporting to be registered);

(b) for gain—

- (i) mentally examines any person;
- (ii) performs any act of diagnosing, treating or preventing any mental defect, illness or deficiency in respect of any person;
- (iii) advises any person on his mental state;
- (iv) on the ground of information provided by any person or obtained from him in any manner whatsoever—
 - (aa) diagnoses such person’s mental state;

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- (bb) advises such person on his mental state;
 - (cc) supplies or sells to or prescribes for such person any medicine or treatment;
 - (v) prescribes or provides any medicine, substance or thing; or
 - (vi) performs any other act specially pertaining to the profession of a psychologist;
- (c) except in accordance with the provisions of the Nursing Act, 1957 (Act No. 69 of 1957), and sections 32, 33, 34 and 39 of this Act, performs any act whatsoever having as its object—
- (i) the diagnosing, treating or preventing of any mental defect, illness or deficiency in any person; and
 - (ii) by virtue of the performance of such act, the obtaining, either for himself or for any other person, of any benefit by way of any profit from the sale or disposal of any medicine, foodstuff or substance or by way of any donation or gift or by way of the provision of accommodation, or the obtaining, either for himself or for any other person, of any other gain whatsoever;
- (d) pretends, or by any means whatsoever holds himself out, to be a psychologist or intern-psychologist (whether or not purporting to be registered) or a healer, of whatever description, of mental defects, illnesses or deficiencies in man;
- (e) uses the name of psychologist, intern-psychologist or doctor or any name, title, description or symbol indicating, or calculated to lead persons to infer, that he is the holder of any qualification as a psychologist or as an intern-psychologist or of any other qualification enabling him to diagnose, treat or prevent mental defects, illnesses or deficiencies in man in any manner whatsoever, or that he is registered under this Act as a psychologist or as an intern-psychologist;
- (f) except in accordance with the provisions of the Nursing Act, 1957, and sections 32, 33, 34 and 39 of this Act, by words, conduct or demeanour holds himself out to be able, qualified or competent to diagnose, treat or prevent mental defects, illnesses or deficiencies in man or to prescribe or supply any medicine, substance or thing in respect of such defects, illnesses or deficiencies,

shall be guilty of an offence and on conviction liable to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment.

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(2) The following acts shall, for the purposes of subsection (1), be deemed to be acts specially pertaining to the profession of a psychologist, namely—

- (a) the evaluation of behaviour or mental processes or personality adjustments or adjustments of individuals or of groups of persons, through the interpretation of tests for the determination of intellectual abilities, aptitude, interests, personality make-up or personality functioning;
- (b) the use of any method or practice aimed at aiding persons or groups of persons in the adjustment of personality, emotional or behavioural problems or at the promotion of positive personality change, growth and development;
- (c) the control of a prescribed test, or of the use of a prescribed technique, device or instrument, for the determination of intellectual abilities, personality make-up, personality functioning, aptitude or interests.

(3) The provisions of subsection (1) shall not prohibit an intern-psychologist from—

- (a) performing any function or issuing any certificate or other document which in terms of any law, other than this Act, may be or is required to be performed or issued by a psychologist, whether described in such law as a psychologist or by any other name or designation; or
- (b) describing himself as a psychologist in connection with the performance of any such function or the issuing of any such certificate or other document,

and any reference in any such law to such a psychologist shall be deemed to include a reference to an intern-psychologist.

(4) Subject to the provisions of subsection (5), the provisions of subsection (1) shall not be construed as prohibiting the following, namely—

- (a) the use of a method or technique, referred to in subsection (2), by—
 - (i) an educational or a research institution recognized by the council;
 - (ii) a member of the academic staff of a university or a teacher on the staff of a school established by a provincial administration or established under the Educational Services Act, 1967 (Act No. 41 of 1967), the Bantu Education Act, 1953 (Act No. 47 of 1953), the Coloured Persons Education Act, 1963 (Act No. 47 of 1963), the Coloured Persons in South-West Africa Education Act, 1972 (Act No. 63 of 1972), the Bastards of Rehoboth Education Act, 1972 (Act No. 85 of 1972), the Nama in South-West Africa Education Act, 1972 (Act No. 86 of 1972), and the Indians Education Act, 1965 (Act No. 61 of 1965),

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- in the ordinary course of education or research in education;
- (b) the performance of any act by a medical practitioner, provided it is performed in the ordinary course of the practice of his profession;
 - (c) the performance of any act by a nurse registered under the Nursing Act, 1957, provided it is performed in the ordinary course of the practice of the profession of a nurse;
 - (d) the performance of any act by or under the supervision of a social worker registered under the National Welfare Act, 1965 (Act No. 79 of 1965), or by or under the supervision of an officer in the service of the State performing social work as defined in section 1 of the said Act, provided it is performed in the ordinary course of the practice of the profession of such a social worker or such an officer or of the training of a social worker;
 - (e) the performance of any act by a person holding office in a church which exists for the purpose of the worship of the Almighty God, provided it is performed for that purpose and in accordance with the normal pastoral practice of that church;
 - (f) anything necessary or required to be done by a student in the course of and for the purposes of his studies at a university or other prescribed institution, provided it is done by him under the supervision of a psychologist;
 - (g) anything done in the prescribed manner—
 - (i) by any person under the supervision of or on the instructions of a psychologist; or
 - (ii) by an organization, recognized by the council, which performs services for the aid of persons with personal problems.
- (5) The provisions of subsection (4) shall not be construed as authorizing—
- (a) in the case of a member of the academic staff or teacher referred to in paragraph (a) (ii) of that subsection, the treatment of a mental illness as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973);
 - (b) in the case of a social worker referred to in paragraph (d) of that subsection, the conduct of a psychological test or the treatment of a mental illness as defined in section 1 of the said Mental Health Act;
 - (c) in the case of a person referred to in paragraph (e) of that subsection, the conduct of a psychological test or the treatment of a mental illness as defined in section 1 of the said Mental Health Act.
- (6) The Minister may, on the recommendation of the council acting after consultation with the professional board referred to in section 15 (1), by regulation—
- (a) provide that any act referred to in subsection (2) and specified in such regulation, may be performed by a person not registered as a

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psychologist or as an intern-psychologist under this Act; and

- (b) prescribe the conditions on which such act may be performed by such person.”.

7. The following section is hereby substituted for section 40 of the principal Act: Substitution of section 40 of Act 56 of 1974.

“Penalty for professing to be a registered person or the holder of certain qualifications. 40. Any person who is not registered under section 32 in respect of any supplementary health service profession, but—

- (a) pretends to be so registered in respect of such profession; or
(b) uses any name, title, description or symbol indicating, or calculated to lead persons to infer, that he is the holder of any qualification which by rule under section 32 (1) is recognized by the council as acceptable for registration in respect of such profession, but of which qualification he is not the holder,

shall be guilty of an offence and on conviction liable to a fine not exceeding five hundred rand, or to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment.”.

8. Section 42 of the principal Act is hereby amended by the deletion of subsection (6). Amendment of section 42 of Act 56 of 1974.

9. Section 50 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding the proviso of the following words: Amendment of section 50 of Act 56 of 1974.

“(1) The council may in respect of persons registered under section 18 as psychologists or intern-psychologists or registered under section 32 in respect of any supplementary health service profession, after consultation with the professional board concerned, make rules specifying the acts or omissions in respect of which disciplinary steps may be taken under section 48:”.

10. Section 61 of the principal Act is hereby amended— Amendment of section 61 of Act 56 of 1974.

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

“(i) the nature and duration of the training to be undergone by any person who has obtained a qualification in medicine or psychology prescribed under section 24 or 25, but who is not yet registered as a medical practitioner or psychologist, as the case may be, before he may be registered as such;”;

- (b) by the insertion after subparagraph (iv) of paragraph (1) of the said subsection (1) of the following subparagraph:

“(ivA) the registration by the council of persons taking or undergoing such courses or training and the fees payable in respect of such registration;”;

- (c) by the substitution for subparagraph (i) of paragraph (n) of the said subsection (1) of the following subparagraph:

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- “(i) the registration of interns or intern-psychologists, including the recording of particulars of their training and proof of the performance thereof;”;
and
- (d) by the substitution for subparagraph (iii) of the said paragraph (n) of the said subsection (1) of the following subparagraph:
 - “(iii) any other matter incidental to the registration or training of interns or intern-psychologists;”.

11. This Act shall be called the Medical, Dental and Supplementary Health Service Professions Amendment Act, 1976. Short title.