



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

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KAAPSTAD, 16 OKTOBER 1974

DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1874. 16 October 1974.

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

No. 56 of 1974: Medical, Dental and Supplementary Health Service Professions Act, 1974.

No. 1874. 16 Oktober 1974.

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

No. 56 van 1974: Wet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensberoepes, 1974.

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HEALTH SERVICE PROFESSIONS ACT, 1974.

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ACT

To consolidate and amend the laws providing for the establishment of the South African Medical and Dental Council, for control over the training of and for the registration of medical practitioners, dentists and practitioners of supplementary health service professions; to provide for control over the training of and for the registration of psychologists; and to provide for matters incidental thereto.

*(Afrikaans text signed by the State President.)
(Assented to 9 October 1974.)*

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

1. In this Act, unless the context otherwise indicates— Definitions.
- (i) “council” means the council referred to in section 2; (xiii)
 - (ii) “dentist” means a person registered as such under this Act (xxi)
 - (iii) “intern” means a person registered as such under this Act; (vii)
 - (iv) “medical practitioner” means a person registered as such under this Act; (v)
 - (v) “medicine” means medicine as defined in section 1 of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965); (x)
 - (vi) “medicinal purpose” in relation to a scheduled substance, means the purpose of treatment or prevention of a disease or some other definite curative or therapeutic purpose, but does not include the satisfaction or relief of a habit or a craving for the substance used or for any other scheduled substance except where the substance is administered or used in a hospital or similar institution maintained wholly or partly by the Government or a provincial administration or the Administration of South West Africa, or approved for that purpose by the Minister; (ii)
 - (vii) “member” means a member of the council; (ix)
 - (viii) “Minister” means the Minister of Health; (xi)
 - (ix) “prescribe” means prescribe by regulation and “prescribed” shall have a corresponding meaning; (xxiii)
 - (x) “president” means the president of the council; (xii)
 - (xi) “professional board” means a professional board established in terms of any of the provisions of section 15; (iii)
 - (xii) “psychologist” means a person registered as such under this Act; (xx)
 - (xiii) “qualification” means any degree, diploma or certificate awarded after examination of a person’s proficiency in a particular subject; (viii)

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- (xiv) "register", when used as a verb, means to enter in a register, the words "registered", "registrable", "registration" and all other words formed with or derived from the word "register" having a corresponding meaning; (xvii)
- (xv) "register", when used as a noun, means a register kept in accordance with the provisions of this Act, and when used in relation to any class or a member of any class of persons in respect of which a register is kept, means the register kept for that class; (xv)
- (xvi) "registrar" means the registrar appointed under section 12 or a person lawfully acting in that capacity; (xvi)
- (xvii) "regulation" means any regulation made under this Act; (xviii)
- (xviii) "Republic" includes the territory of South West Africa; (xix)
- (xix) "rule" means any rule made under this Act; (xiv)
- (xx) "scheduled substance" means any medicine or substance listed in the schedules to the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965); (iv)
- (xxi) "supplementary health service profession" means any profession referred to in section 32 other than a profession excluded from the provisions of that section; (i)
- (xxii) "this Act" includes the regulations, rules and any proclamation or order issued or made under this Act; (vi)
- (xxiii) "vice-president" means the vice-president of the council. (xxii)

CHAPTER I

CONTINUED EXISTENCE AND OBJECTS, FUNCTIONS AND POWERS
OF THE SOUTH AFRICAN MEDICAL AND DENTAL COUNCIL

2. The South African Medical and Dental Council established by section 2 of the Medical, Dental and Pharmacy Act, 1928 (Act No. 13 of 1928), shall, notwithstanding the provisions of section 64 (1) of this Act, continue to exist and to be a corporate body.

Continued existence
of South African
Medical and
Dental Council.

3. The objects of the council are—

Objects of the
council.

- (a) to assist in the promotion of the health of the population of the Republic;
- (b) subject to the provisions of the Nursing Act, 1957 (Act No. 69 of 1957), the Chiropractors Act, 1971 (Act No. 76 of 1971), and the Pharmacy Act, 1974, to control, and to exercise authority in respect of, all matters affecting the training of persons in, and the manner of the exercise of the practices pursued in connection with, the diagnosis, treatment or prevention of physical or mental defects, illnesses or deficiencies in man;
- (c) to promote liaison in the field of the training referred to in paragraph (b), both in the Republic and elsewhere, and to promote the standards of such training in the Republic;
- (d) to advise the Minister on any matter falling within the scope of this Act;
- (e) 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.

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4. The council may—

General powers of
the council.

- (a) in such circumstances as may be prescribed, or where otherwise authorized by this Act, remove any name from a register or, upon payment of the prescribed fee, restore it thereto;
- (b) appoint examiners and moderators, conduct examinations and grant certificates, and charge such fees in respect of such examinations or certificates as may be prescribed;
- (c) approve, on such prescribed conditions as it may deem fit, of training schools;
- (d) acquire, hire or dispose of property, borrow money on the security of the assets of the council or accept and administer any trust or donation;
- (e) render financial assistance to professional boards in order to enable such boards to perform their functions;
- (f) consider any matter affecting the medical, dental or psychology profession or any of the supplementary health service professions and make representations or take such action in connection therewith as the council deems advisable;
- (g) upon application of any person, recognize any qualifications held by him (whether such qualifications have been obtained in the Republic or elsewhere) as being equal, either wholly or in part, to any prescribed qualifications, whereupon such person shall, to the extent to which the qualifications have so been recognized, be deemed to hold such prescribed qualifications;
- (h) perform such other functions as may be prescribed, and

generally, do all such things as the council deems necessary or expedient to achieve the objects of this Act.

5. (1) After the date referred to in section 64 (3), the council shall consist of the following members, namely—

Constitution of
council.

- (a) the Secretary for Health;
- (b) eight persons appointed by the Minister, of whom—
 - (i) four shall be medical practitioners;
 - (ii) one shall be a dentist;
 - (iii) one shall be attached to a faculty of medicine or dentistry of a university; and
 - (iv) two shall be persons who are not registered under this Act;
- (c) one medical practitioner who is a Director of Hospital Services and who shall be designated by the Administrators of the provinces;
- (d) three medical practitioners representing the universities at which faculties of medicine have been established and one dentist representing the universities at which faculties of dentistry have been established, designated from the staffs of such universities by the principals or rectors, as the case may be, of such universities: Provided that not more than one medical practitioner so designated shall be attached to the staff of any one such university;
- (e) seven medical practitioners and two dentists who are South African citizens, resident in the Republic and elected in accordance with the provisions of this Act, in the case of the medical practitioners, by the medical practitioners and, in the case of the dentists, by the dentists resident in the Republic: Provided that not more than two medical practitioners and not more than one dentist so elected shall be ordinarily resident in any one province of the Republic;
- (f) one person designated by the South African Nursing Council established by section 2 of the Nursing Act,

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- 1957 (Act No. 69 of 1957), who is a member of that council and is registered under that Act;
- (g) one person designated by the South African Pharmacy Board referred to in section 2 of the Pharmacy Act, 1974, who is a member of that board and is registered under that Act as a pharmacist.
- (2) The member referred to in subsection (1) (a) may designate an officer of the Department of Health who is a medical practitioner, to act in his stead as an alternate member of the council.
- (3) Subject to the provisions of section 6, the members of the council shall hold office for a period of five years, but shall be eligible for reappointment, re-election or redesignation, as the case may be.
- (4) Not less than three months prior to the date of expiry of the term of office of the members of the council, the Administrators of the provinces, the principals or rectors of the universities referred to in subsection (1) (d), the South African Nursing Council referred to in subsection (1) (f) and the South African Pharmacy Board referred to in subsection (1) (g) shall inform the registrar in writing of the names of the persons designated by them in terms of the provisions of subsection (1), and the registrar shall, as soon as possible, give notice in the *Gazette* of the names of the persons so designated.
- (5) If the Administrators of the provinces or the principals or rectors of the universities referred to in subsection (4) fail, or if the South African Nursing Council or the South African Pharmacy Board referred to in that subsection fails to make a designation in terms of the provisions of subsection (1), or to inform the registrar, as required in subsection (4), of the names of the persons designated by them, the Minister shall make the necessary designation and any designation so made by the Minister shall be deemed to have been properly made in terms of the appropriate paragraph of subsection (1).
- (6) As soon as possible after the election of the members referred to in paragraph (e) of subsection (1), the Minister shall inform the registrar of the names of the persons appointed by him in terms of paragraph (b) of that subsection.
- (7) The names of the members of the council and the date of commencement of their term of office shall be published by the registrar in the *Gazette* as soon as possible after the constitution of the council.

6. (1) A member of the council shall vacate his office if—
- (a) his estate is sequestrated or he has entered into a composition with the creditors of his estate;
- (b) he has been absent from more than two consecutive ordinary meetings of the council without the council's leave;
- (c) he is or becomes disqualified under this Act from practising his profession;
- (d) (i) being an elected member, he tenders his resignation in writing to the registrar;
- (ii) being a member appointed by the Minister, he ceases to hold any qualification necessary for his appointment or tenders his resignation in writing to the Minister and the Minister accepts his resignation;
- (iii) being a member designated by the Administrators of the provinces, by the principals or rectors of the universities referred to in section 5 (1) (d), by the South African Nursing Council referred to in section 5 (1) (f) or by the South African Pharmacy Board referred to in section 5 (1) (g), he ceases to hold any qualification necessary for his designation or tenders his resignation in writing to the persons or body by whom he was designated and his

Vacation of
office and filling
of vacancies.

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resignation is accepted by the persons or body concerned;

- (e) he ceases to be a South African citizen;
- (f) he becomes a patient as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973);
- (g) he is convicted of an offence in respect whereof he is sentenced to imprisonment without the option of a fine; or
- (h) the State President, in the public interest, terminates his membership.

(2) Every vacancy on the council arising from a circumstance referred to in subsection (1) and every vacancy caused by the death of a member, shall be filled by appointment, designation 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, designated or elected, and every member so appointed, designated or elected shall hold office for the unexpired portion of the period for which the vacating member was appointed, designated or elected.

7. (1) At the first meeting of every newly constituted council the members of the council shall elect a president and a vice-president from among themselves. President and vice-president.

(2) The president and vice-president shall hold office during the term of office of the members of the council unless the president or vice-president shall sooner resign or cease to be a member of the council.

(3) The vice-president may, if the president is absent or for any reason unable to act as president, perform all the functions and exercise all the powers of the president.

(4) If both the president and vice-president are absent from any meeting, the members present shall elect one of their number to preside at that meeting and the person so presiding may, during that meeting and until the president or the vice-president resumes duty, perform all the functions and exercise all the powers of the president.

(5) If both the president and the vice-president have been given leave of absence, the members of the council shall elect one of their number to act as president until the president or the vice-president resumes duty or vacates office.

(6) If the office of president or vice-president becomes vacant, the members of the council shall, at the first meeting after such vacancy occurs or as soon thereafter as may be convenient, elect from among themselves a new president or vice-president, as the case may be, and the member so elected shall hold office for the unexpired portion of the period for which his predecessor was elected.

(7) A president or a vice-president may vacate office as such without such vacation by itself terminating his membership of the council.

8. (1) The council shall hold at least two meetings in each year at venues to be determined by the council, and may in addition hold such further meetings as the council may from time to time determine. Meetings of the council.

(2) The president may at any time convene a special meeting of the council, to be held on such date and at such place as he may determine and he shall, upon a written request by the Minister or a written request signed by at least six members, convene a special meeting to be held, within thirty days after the date of receipt of the request, on such date and at such place as he may determine: Provided that such written request shall state clearly the purpose for which the meeting is to be convened.

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9. (1) Nine members, of whom not less than four shall be medical practitioners, at least one shall be a dentist and at least one shall be a person not registered under this Act, shall constitute a quorum at any meeting of the council. Quorum and procedure at meetings.

(2) A decision of the majority of the members of the council present at any meeting shall constitute a decision of the council: Provided that in the event of an equality of votes the member presiding shall have a casting vote in addition to a deliberative vote.

(3) No decision taken by the council or act performed under authority of the council shall be invalid by reason only of an interim vacancy on the council or of the fact that a person who is not entitled to sit as a member of the council sat as a member at the time when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members of the council who were present at the time and entitled to sit as members.

10. (1) There shall be an executive committee of the council consisting of the president, the vice-president, the Secretary for Health (or, in his absence, the officer designated in terms of section 5 (2)) and five other members of the council designated by the council, of whom three shall be medical practitioners, one shall be a dentist and one shall be a member appointed under section 5 (1) (b) (iv). Executive committee.

(2) The executive committee may, subject to the directions of the council, exercise all the powers and perform all the functions of the council during periods between meetings of the council but shall not have the power, save in so far as the council otherwise directs, to set aside or amend any decision of the council, and any act performed or decision taken by the executive committee shall be of force and effect unless it is set aside or amended by the council at its next ensuing meeting.

11. (1) The council shall establish—

- (a) an education committee which shall consist of so many persons, appointed by the council, as the council may determine but which shall include at least one member of the council who shall be the chairman of such committee and at least one representative of each medical and each dental faculty established at a university;
- (b) a specialists committee which shall consist of so many persons, appointed by the council, as the council may determine but which shall include at least one member of the council who shall be the chairman of such committee.

Other committees.

(2) The committees established in terms of subsection (1) shall, subject to the provisions of subsection (5), exercise such of the council's powers and perform such of the council's functions as the council may from time to time assign to it.

(3) The council may from time to time establish such other committees as it may deem necessary, each consisting of so many persons, appointed by the council, as the council may determine but including at least one member of the council who shall be the chairman of such committee, to investigate and report to the council on any matter falling within the scope of the council's functions under this Act.

(4) Subject to the provisions of subsection (5) the council may delegate to any committee established in terms of subsection (3) such of its powers, in addition to the powers conferred upon such committees by subsection (3), as it may from time to time determine, but shall not be divested of any power so delegated.

(5) No penalty imposed by any committee established in terms of subsection (1) or (3), other than a caution or a reprimand or a reprimand and a caution, shall be of force and effect until the council has confirmed its imposition: Provided that an order made by any such committee under section 51 (2) shall, if

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the committee so directs in the public interest, come into operation forthwith, but shall lapse after the expiration of a period of six months unless confirmed within that period by the council.

12. (1) Subject to the provisions of subsection (4) the council shall appoint a registrar and may appoint such other persons as it may deem necessary for carrying out its functions under this Act, and may dismiss any of such other persons. Appointment of registrar and staff.

(2) The registrar shall act as secretary to the council and he shall perform the functions and carry out the duties assigned to or imposed upon him under this Act as well as such functions and duties as may from time to time be assigned to or imposed upon him by the council.

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

(4) No appointment may be made in terms of this section unless the person appointed is proficient in both official languages.

13. (1) All registration and examination fees and any other fees payable under this Act, shall be paid to the council and shall constitute its funds and the council shall utilize its funds for defraying expenses incurred in connection with the performance of its functions. Financing of council.

(2) The council may invest any unexpended portion of its moneys and may establish such reserve funds and pay therein such amounts as it may deem necessary or expedient.

14. If anything required to be done under this Act in connection with the appointment, designation or election of any member is omitted or not done within the time or in the manner required by this Act, the Minister may order all such steps to be taken as may be necessary to rectify the omission or error or may validate anything done in an irregular manner or form, in order to give effect to the objects of this Act. Minister may rectify defects.

15. (1) The council shall, subject to the provisions of subsection (3), establish a professional board in respect of the psychology profession to promote high standards of professional education and professional conduct among the members of that profession, which board shall, subject to the provisions of subsection (6), consist of persons whose names appear in the register kept in terms of section 18 in respect of the said profession. Establishment of professional boards in respect of certain professions.

(2) If the council deems it in the public interest that a professional board be established in respect of any profession in respect of which a register is kept under section 32, or in respect of two or more such professions, to promote high standards of professional education and professional conduct among the members of such profession or professions, it may, subject to the provisions of subsection (3), make a recommendation to the Minister that a professional board be established in respect of such profession or professions.

(3) Before establishing a professional board in terms of subsection (1) or making a recommendation in terms of subsection (2), the council shall consult with any body of persons which in the opinion of the Minister is representative—

- (a) in the case of the establishing of the professional board as contemplated in subsection (1), of the majority of persons whose names appear in the register referred to in subsection (1);
- (b) in the case of the making of a recommendation as contemplated in subsection (2), of the majority of persons whose names appear in the register kept under section 32 in respect of the profession in question or,

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where such recommendation relates to the establishing of a professional board in respect of two or more professions, of the majority of persons whose names appear in the registers kept under the said section in respect of the professions in question.

(4) The Minister may, after having received a recommendation referred to in subsection (2), by notice in the *Gazette* in respect of the profession or professions to which such recommendation relates, establish a professional board which shall, subject to the provisions of subsection (6), consist of persons whose names appear in the register kept under section 32 in respect of the profession in question or, where such professional board is established in respect of two or more professions, in the registers so kept in respect of the professions in question.

(5) The Minister may make regulations relating to the constitution, functions, powers and duties of a professional board established in terms of subsection (1) or (4).

(6) Regulations relating to the constitution of a professional board referred to in subsection (1) or (4), shall provide for the following, namely—

- (a) the inclusion of at least one member of the council, designated by the council, as a member of such professional board;
- (b) the election of the majority of the members of such professional board by persons registered in terms of the provisions of this Act in respect of the profession or professions in question;
- (c) the inclusion as one of the members of such professional board of a medical practitioner or dentist, designated by the council, who has special knowledge of the profession or professions in question.

(7) Any professional board established under this section shall, in addition to the performance of any duty prescribed under subsection (5), report to the council on any matter affecting the profession or professions in respect of which such professional board has been established and on any matter referred to it by the council.

(8) When a report submitted under subsection (7) is considered by the council, the chairman of the professional board in question shall be present at the meeting at which such report is considered by the council, shall have the right to address the council concerning any matter dealt with in such report, shall have the right to vote if any vote is taken at such meeting in respect of such matter and shall have all the privileges and duties of a member of the council attending such meeting.

(9) Any professional board established under this section shall have the right to make, to or through the council, representations for the making, amendment or withdrawal of any regulation or rule which applies in relation to such professional board or the profession or professions in respect of which such professional board was established.

(10) No rule or regulation relating to any professional board, or the profession or professions in respect of which it has been established, shall be made unless such professional board has been consulted by the council in regard thereto.

(11) The election of members of any professional board established under this section and any election to fill a casual vacancy on such professional board, shall be held *mutatis mutandis* in accordance with the provisions of this Act relating to the election, contemplated in section 5 (1) (e), of members of the council.

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CHAPTER II

TRAINING AND REGISTRATION

16. (1) Notwithstanding anything to the contrary in any other law contained but subject to the provisions of the Nursing Act, 1957 (Act No. 69 of 1957), no person or educational institution may offer or provide any training having as its object to qualify any person for the practising of any profession to which the provisions of this Act apply or for the carrying on of any other activity directed to the mental or physical examining of any person or to the diagnosis, treatment or prevention of any mental or physical defect, illness or deficiency in man, unless such training has been approved by the council. Control over training.

(2) Any person or educational institution wishing to offer such training as is referred to in subsection (1) shall, before offering such training, apply to the council in writing for its approval of such training and shall furnish such particulars regarding such training as the council may require.

(3) The council may grant or refuse any application made in terms of subsection (2) and, having granted such application, may prescribe such conditions and requirements as it may deem fit subject to which the training in question may be provided.

(4) Any decision made by the council in terms of subsection (3) shall be final.

(5) Any person who contravenes or fails to comply with any provision of this section 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 six months or to both such fine and such imprisonment.

17. (1) No person shall be entitled to practise within the Republic— Registration a prerequisite for practising.

- (a) the profession of a medical practitioner, dentist, psychologist or as an intern; or
- (b) except in so far as it is authorized by the provisions of the Nursing Act, 1957 (Act No. 69 of 1957), the Chiropractors Act, 1971 (Act No. 76 of 1971), the Pharmacy Act, 1974, and sections 32, 33, 34 and 39 of this Act, for gain any other profession the practice of which mainly consists of—
 - (i) the physical or mental examination of persons;
 - (ii) the diagnosis, treatment or prevention of physical or mental defects, illnesses or deficiencies in man;
 - (iii) the giving of advice in regard to such defects, illnesses or deficiencies; or
 - (iv) the prescribing or providing of medicine in connection with such defects, illnesses or deficiencies,

unless he is registered in terms of this Act.

(2) Every person desiring to be registered in terms of this Act shall apply to the council and shall submit the qualification which, in his submission, entitles him to registration, together with such proof of identity and good character and of the authenticity and validity of the qualification submitted as may be required by the council.

(3) If the registrar is satisfied that the qualification and the other documents submitted in support of the application satisfy the requirements of this Act and that, in the case of an applicant who has obtained his qualifications outside the Republic, the

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applicant is domiciled in the Republic, he shall, upon payment by the applicant of the prescribed registration fee, issue a registration certificate authorizing the applicant, subject to the provisions of this Act or of any other law, to practise the profession in respect whereof he has applied for registration, within the Republic.

(4) If the registrar is not satisfied that the qualification or other documents submitted in support of the application satisfy the requirements of this Act, he shall refuse to issue a registration certificate to the applicant but shall, if so required by the applicant, submit the application to the council for decision.

18. (1) The registrar shall keep separate registers in respect of medical practitioners, dentists, interns, medical students, dental students and psychologists 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) as the council may determine, of every person whose application for registration in terms of section 17 (2) has been granted. Keeping of registers.

(2) The registrar shall keep the registers correctly and in accordance with the provisions of this Act and shall remove therefrom the names of all registered persons who have died or whose period of registration has expired in terms of regulations made under section 26 (1) and shall from time to time make the necessary alterations in the addresses or qualifications of registered persons.

(3) Every registered person who changes his address shall in writing notify the registrar thereof within thirty days after such change.

(4) The Secretary for the Interior shall on receipt of the death register of a person showing that such person immediately prior to his death practised a profession the members of which are required to be registered under this Act, forthwith notify the registrar of such death.

(5) No qualification shall be entered in the register unless the registrar is satisfied that the person claiming to possess such qualification is entitled thereto, or if the council is not so satisfied; and any entry which is proved to the satisfaction of the council to have been made in error or through misrepresentation or in circumstances not authorized by this Act, may be removed from the register and a record of the reason for every such removal shall be made in the register, and the person in respect of whose entry such removal has been made, shall be notified thereof in the manner contemplated in section 19 (2) and any certificate issued in respect of the registration in question shall be deemed to be cancelled as from the date on which notice has so been given.

19. (1) The council may direct the registrar to remove from the register the name of any person— Removal of name from, and restoration to, register.

- (a) who has been absent from the Republic during the three years immediately preceding such removal;
- (b) who has failed to notify the registrar, within a period of three months as from the date of an enquiry sent by the registrar by registered letter to the address appearing in the register in respect of such person, of his present address;
- (c) who has requested that his name be removed from the register, in which case such person may be required to lodge with the registrar an affidavit to the effect that

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no disciplinary or criminal proceedings are being or are likely to be taken against him;

- (d) who has failed to pay to the council, within three months as from the date on which it became due for payment, any annual fee prescribed by the council in terms of section 62 (1) or 63 (1);
- (e) whose name has been removed from the register, record or roll of any university, hospital, college, society or other body from which that person received the qualification by virtue of the holding whereof he was registered.

(2) Notice of the removal, in terms of subsection (1), of his name from the register, or of the removal, in terms of section 18 (5), of an entry from the register, shall be given by the registrar to the person concerned by way of a registered letter addressed to such person at the address appearing in respect of him in the register.

(3) As from the date on which notice has been given in terms of subsection (2)—

- (a) any registration certificate issued in terms of this Act to the person concerned shall be deemed to be cancelled; and
- (b) such person shall cease to practise the profession in respect of which he was registered or to perform any act which he, in his capacity as a registered person, was entitled to perform,

until such time as his name or the entry removed from the register in terms of section 18 (5), as the case may be, is restored to the register.

(4) If from the documents submitted to him in terms of section 18 (3) of the Mental Health Act, 1973 (Act No. 18 of 1973), it appears to the judge concerned, or it is brought to his notice in any other manner, that the person to whom the documents relate is a person registered under this Act, he shall, if the said person is declared a mentally ill person as contemplated in section 19 (1) (b) of the said Mental Health Act, direct that a copy of the order declaring such person a mentally ill person be transmitted to the registrar and the registrar shall, on receipt of the said copy, remove the name of the person concerned from the register.

(5) The name of a person whose name has in terms of this section been removed from the register or an entry removed from the register in terms of section 18 (5), shall be restored to the register by the registrar upon the person concerned—

- (a) applying on the prescribed form for such restoration;
- (b) paying the fee prescribed in respect of such restoration (if any);
- (c) in the case where his name has been removed from the register in terms of subsection (4), submitting proof to the satisfaction of the council of his discharge in terms of the provisions of the Mental Health Act, 1973, from the institution at which he had been detained; and
- (d) complying with such other requirements as the council may determine.

(6) The registrar shall not, except where a person's name has to be removed in terms of subsection (4), under the provisions of this section remove the name of any person from any register kept under section 32 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 so established.

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20. (1) Any person aggrieved by the council's decision—

Appeal against
refusal to register
or removal from
register.

- (a) to refuse to register him or to enter in the appropriate register any qualification, additional qualification, speciality or particular which he desires, and maintains to be entitled, to have so entered in terms of the provisions of this Act; or
- (b) to remove from the register his name or any qualification, additional qualification, speciality or particular which he maintains to be entitled to have entered in the register in terms of the provisions of this Act,

may, after notice to the council and within a period of two months after the date of such decision, appeal to the provincial or local division of the Supreme Court of South Africa having jurisdiction in the area in which the appellant normally resides, against such decision.

(2) The court may dismiss such appeal or, if it is of the opinion that the council has not acted in accordance with the provisions of this Act, may make an order reversing or modifying the council's decision or may remit the matter to the council for further consideration or make such other order, including an order as to costs, as it may deem appropriate.

21. The registers shall be kept at the office of the council and the registrar shall, at intervals to be determined by the council and according to the instructions and on the authority of the council, cause copies of the registers, or of supplementary lists showing all alterations, additions, revisions and deletions made since the last publication of the complete registers, to be printed and published.

Custody and
publication of
registers.

22. A copy of the last published issue of a register or any supplementary list purporting to be printed and published on the authority of the council shall be *prima facie* proof, in all legal proceedings, of the facts therein recorded, and the absence of the name of any person from such copy shall be proof, until the contrary is proved, that such person is not registered according to the provisions of this Act: Provided that in the case of any person whose name—

Register as proof.

- (a) does not appear in such copy, or whose name has been added to the register after the date of the last published issue thereof, a certified copy under the hand of the registrar of the entry of the name of such person in the register, shall be proof that such person is registered under the provisions of this Act;
- (b) has been removed from the register since the date of the last published issue thereof and has not been restored thereto, a certificate under the hand of the registrar that the name of such person has been removed from the register shall be proof that such person is not registered according to the provisions of this Act.

23. (1) If the registrar is satisfied—

- (a) on proof submitted by the registered person concerned, that a registration certificate has been destroyed; or
- (b) by virtue of an affidavit submitted by the registered person concerned, that a registration certificate has been lost,

Issue of duplicate
registration cer-
tificate, certificate
of status, extract
from register or
certificate by
registrar.

he may issue a duplicate registration certificate to that person upon payment of the prescribed fee.

(2) The registrar may, upon payment of the prescribed fee, issue to any registered person a certificate of status containing particulars relating to such person's registration as well as a

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statement to the effect that the said person is not disqualified from practising his profession and that no disciplinary steps are pending against him in terms of this Act.

(3) The registrar may issue a certified extract from the register or a certificate under his hand as provided in section 22 to any person upon payment of the prescribed fee.

24. (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 examining authority, which, when held singly or conjointly with any other qualification, shall entitle any holder thereof to registration under this Act as a medical practitioner, dentist or psychologist, as the case may be, if he has, before or in connection with or after the acquisition of the qualification in question, complied with such conditions or requirements as may be so prescribed.

Qualifications
prescribed for
registration.

(2) No qualification obtained by virtue of examinations conducted by a university, or other examining authority, situated outside the Republic shall be prescribed under this section unless—

- (a) such qualification entitles the holder thereof to practise as a medical practitioner, dentist or psychologist, as the case may be, in the country or state in which such university or other examining authority is situated;
- (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, dentists or psychologists, as the case may be, are permitted without further examination to practise as medical practitioners, dentists or psychologists, as the case may be, in that country or state; and
- (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, dentists or psychologists, as the case may be, within the Republic.

(3) It may, on the recommendation of the council, be prescribed in terms of subsection (1), in relation to any qualification referred to in subsection (2), that registration under this Act shall be limited to a particular category of holders of such qualification or to a specified number of holders of that category and that the particular holders to be registered shall be selected in accordance with a specified procedure.

25. (1) Any South African citizen who—

- (a) is a South African citizen by birth or descent; or
- (b) was domiciled in the Republic when he departed therefrom for the purpose of prosecuting his professional studies and who was a South African citizen at the time of his departure,

Prescribing of
qualifications
obtained outside
Republic by
South African
citizens.

may, if he has obtained a qualification not prescribed under section 24 but which is prescribed under subsection (2) of this section, be registered as a medical practitioner, dentist or psychologist, as the case may be, under this Act after he has complied with the conditions or requirements referred to in the said subsection (2).

(2) Subject to the provisions of subsection (3) 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 examining authority, situated outside the Republic, which, when held singly or conjointly with

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any other qualification by any person referred to in subsection (1), shall entitle any such holder thereof to registration under this Act as a medical practitioner, dentist or psychologist, as the case may be, if he has, before or in connection with or after the acquisition of the qualification in question, complied with such conditions or requirements as may be so prescribed.

(3) No qualification referred to in subsection (2) shall be prescribed in terms of that subsection unless—

- (a) such qualification entitles the holder thereof, so far as professional qualifications are concerned, to practise as a medical practitioner, dentist or psychologist, as the case may be, in the country or state in which the university or other examining authority in question is situated; and
- (b) the council is satisfied that possession of such qualification indicates a standard of professional education not lower than that prescribed for medical practitioners, dentists or psychologists, as the case may be, within the Republic.

26. (1) The Minister may from time to time, on the recommendation of the council, by regulation provide that any person who— Limited registration.

- (a) holds a qualification obtained by virtue of examinations conducted by a university, or other examining authority, situated outside the Republic, which qualification, but for the provisions of section 24 (2) (b), could have been prescribed under section 24;
- (b) although he is not a South African citizen, holds a qualification prescribed in terms of section 25 (2) in respect of South African citizens; or
- (c) holds such other qualification as the council may, for the purpose of registration under this subsection, accept by virtue of the fact that such qualification, in the opinion of the council, indicates a satisfactory standard of professional education,

and who belongs to a prescribed category of persons, may be registered under this section as a medical practitioner, dentist or psychologist, as the case may be, and thereupon the council may in its discretion, but subject to any regulations which the Minister may make, register such person.

(2) Any person registered under subsection (1) as a medical practitioner, dentist or psychologist shall only be entitled to practise as such—

- (a) for an initial period not exceeding five years and thereafter for such period or periods as the council may determine;
- (b) in respect of such area or areas as the council may determine; and
- (c) subject to such restrictions in respect of his professional activities as the council may determine.

(3) The provisions of this section shall *mutatis mutandis* apply with reference to interns.

27. (1) Any person who—

- (a) holds a qualification prescribed under section 25 (2); and
- (b) has for a period of at least two years been registered as a medical practitioner, dentist or psychologist under section 26 (1); and
- (c) being a medical practitioner or dentist—

- (i) has, while being registered as contemplated in paragraph (b), practised as a medical practitioner or dentist for a period of at least two years at any hospital or similar institution in the Republic of

Exemption of certain registered persons holding qualifications prescribed under section 25 (2) from certain restrictions.

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which at least one year shall have been at a hospital or similar institution approved for this purpose by the council; and

- (ii) submits a certificate issued by the head of the hospital or institution at which such person practised as required by subparagraph (i), if such head is a medical practitioner or dentist or, if such head is not a medical practitioner or dentist, by a medical practitioner or dentist who has personal knowledge of such person's practice during the period of two years referred to in subparagraph (i) and, if the council so requires, by a medical practitioner or dentist indicated by the council, stating that such person was during such period professionally competent and of good character; and
- (d) being a psychologist, satisfies the council that he possesses professional knowledge and skill which is of a standard not lower than that prescribed in respect of psychologists within the Republic; and
- (e) satisfies the council that he has sufficient knowledge of the laws of the Republic applying to medical, dental or psychological practice, as the case may be, and that he is proficient in at least one of the official languages of the Republic,

may apply to the council to be exempted from any restriction imposed in respect of him under the provisions of section 26 (2).

(2) The council shall for the purposes of subsection (1) (e) and, in the case of a psychologist, also for the purposes of subsection (1) (d), require an applicant referred to in subsection (1), to sit for an examination (whether oral or written or both) before examiners appointed by the council.

(3) If the council is satisfied that an applicant referred to in subsection (1) complies with the requirements of that subsection, it shall exempt such applicant from all restrictions imposed in respect of him under section 26 (2).

28. (1) Any person who—

- (a) holds a qualification referred to in section 26 (1) (a) or accepted under section 26 (1) (c); and
- (b) has for a period of at least two years been registered as a medical practitioner, dentist or psychologist under section 26 (1); and
- (c) being a medical practitioner or dentist—
 - (i) has, while being registered as contemplated in paragraph (b), practised as a medical practitioner or dentist for a period of at least two years at any hospital or similar institution in the Republic, of which at least one year shall have been at a hospital or similar institution approved for this purpose by the council; and
 - (ii) submits a certificate issued by the head of the hospital or institution at which such person practised as required by subparagraph (i) if such head is a medical practitioner or dentist or, if such head is not a medical practitioner or dentist, by a medical practitioner or dentist who has personal knowledge of such person's practice during the period of two years referred to in subparagraph (i) and, if the council so requires, by a medical practitioner or dentist indicated by the council, stating that such person was during such period professionally competent and of good character,

Exemption of certain registered persons holding qualifications referred to in section 26 (1) (a) or 26 (1) (c), from certain restrictions.

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may apply to the council to be admitted to sit for an examination referred to in subsection (2).

(2) If the council is satisfied that an applicant referred to in subsection (1) complies with the requirements of that subsection, it shall allow such applicant to sit for an examination prescribed under subsection (3), on a date and at a place determined and before examiners appointed by the council, for the purpose of ascertaining whether such applicant—

- (a) possesses professional knowledge and skill which is of a standard not lower than that prescribed in respect of medical practitioners, dentists or psychologists, as the case may be, in the Republic;
- (b) has sufficient knowledge of the laws of the Republic applying to medical, dental or psychological practice, as the case may be; and
- (c) is proficient in at least one of the official languages of the Republic.

(3) The Minister may from time to time, on the recommendation of the council, make regulations—

- (a) prescribing the examination to be held for the purposes of this section;
- (b) prescribing the fee to be paid by persons intending to sit for such examination; and
- (c) prohibiting a person who has failed such an examination a prescribed number of times, from sitting again for such an examination.

(4) If a person has passed an examination referred to in subsection (3) to the satisfaction of the council, it shall exempt such person from all restrictions imposed in respect of such person under section 26 (2).

29. (1) For the purpose of promoting medical, dental or psychological education 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 for such period as the council may determine.

Registration of certain persons so as to enable them to give educational demonstrations.

(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.

30. (1) Any person not permanently resident within the Republic and having such training and experience as the council may, for the purposes of this section, deem satisfactory, may, notwithstanding the provisions of this Act, be registered by the council for the purposes of subsection (2) as a medical practitioner, dentist or psychologist for such period, not exceeding two years, as the council may determine.

Registration of certain persons so as to enable them to engage in post-graduate studies.

(2) Any person registered in terms of subsection (1) shall only be entitled to engage in post-graduate studies in a department of a faculty of medicine or of dentistry or of psychology at such university in the Republic as the council may determine.

31. (1) Every university at which a qualification can be obtained which entitles any holder thereof to registration under this Act as a medical practitioner, intern, dentist or psychologist, shall furnish the council on its request with full particulars as to—

Universities to furnish the council with certain particulars.

- (a) the minimum age and standard of general education required of students;
- (b) the courses of study, training and examinations required of a student before such qualification is granted;

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(c) the results of any examinations conducted by it, and such other particulars relating to any of the matters specified in paragraph (a), (b) or (c) as the council may from time to time require.

(2) If any university referred to in subsection (1) fails or refuses to furnish any particulars requested by the council under that subsection, or if it appears to the council that any provision of this Act is not being properly complied with by any such university and that such improper compliance is having or may have an adverse effect on the standards of education in medicine, dentistry or psychology maintained at that university, the State President may, on the recommendation of the council, by proclamation in the *Gazette* declare that any specified qualification granted by such university after a date specified in the proclamation shall not entitle any holder thereof to registration under this Act.

(3) The State President may, when it has been made to appear to him upon representations made by the council that satisfactory provision has been made for complying with the requirements of this Act by any university in respect of any qualification which is the subject of a proclamation issued under subsection (2), repeal the said proclamation.

(4) A qualification specified in a proclamation issued under subsection (2) which has been granted by the university to which such proclamation relates between the date specified in that proclamation and the date of the repeal of that proclamation, shall not entitle the holder thereof to registration under this Act.

(5) The council may appoint a person to be present whenever tests are being conducted by any university in respect of the academic progress made by medical, dental or psychology students at such university and to report to the council upon such tests.

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, 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 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.

Examination and registration of persons practising supplementary health service professions.

(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.

33. (1) The Minister may, on the recommendation of the council, by regulation define the scope of any supplementary health service profession by specifying the acts which shall for the purposes of the application of this Act be deemed to be acts

Definition of scope of professions referred to in section 32 and registration of certain persons.

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pertaining to that profession: Provided that such regulation shall not be made unless the professional board established in terms of section 15 in respect of any profession which 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 in question: 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 this fact in its recommendation.

(2) When a professional board has been established under section 15 in respect of any supplementary health service profession, the council shall register in the register kept under section 32 in respect of such profession, the name of any person who—

- (a) (i) was engaged in the practice of such profession for a continuous period of not less than five years immediately prior to the date referred to in paragraph (c);
- (ii) is dependent, wholly or mainly, for his livelihood on the practice of such profession; and
- (iii) submits a certificate by such professional board stating that he is of good character;
- (b) passes an oral and practical examination to the satisfaction of examiners appointed by the council on the recommendation of the professional board concerned; and
- (c) submits to the council an application in the prescribed form containing proof to the satisfaction of the council of the facts referred to in paragraph (a) (i) and (ii), within six months (or such longer period as the council may allow) after the date on which such professional board was established.

34. (1) After considering any recommendation by the council the Minister may by notice in the *Gazette*—

Minister may declare certain areas to be prescribed areas in relation to certain professions and may make regulations for other areas.

- (a) on being satisfied that in any area the facilities for obtaining attendance by persons registered under section 32 in respect of any supplementary health service profession are sufficient for all classes of the population, and that it will be in the public interest to do so, declare such area, as from a date to be specified in such notice, to be a prescribed area for the purposes of section 39;
- (b) make regulations defining the conditions under which any act deemed under section 33 to pertain to any supplementary health service profession, may be performed for gain in any area which has not been declared to be a prescribed area in respect of such profession, by all persons (other than persons who have been registered under section 32 in relation to such profession, or medical practitioners or dentists).

(2) Any person (other than a person rendering assistance in case of emergency) who contravenes any regulation made under subsection (1) (b), shall be guilty of an offence and on conviction liable to the penalties mentioned in section 39.

35. (1) Every person who desires to have a qualification registered, other than the qualification by virtue of which he 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.

Registration and use of additional qualifications, and registration of specialities.

(2) Only such qualifications or specialities as may be prescribed shall be registrable under this section.

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(3) No registered person shall take, use or publish in any way whatsoever any name, title, description or symbol indicating or calculated to lead persons to infer that he holds any professional qualification which is not shown in the register in connection with his name, nor shall any registered person practise as a specialist or hold himself out to be a specialist unless his speciality has been registered as prescribed.

(4) (a) The council may remove from the register any qualification registered in terms of subsection (1), if in respect of such qualification the name of the holder thereof has been removed from the roll, register or record of the university, hospital, college, society or other body from which that person received such qualification.

(b) The council may remove from the register any speciality if it is satisfied that the person on whose application such speciality has been registered has not complied with the requirements prescribed in regard to specialities, and shall so remove any speciality on the written application of the person on whose application such speciality has been registered.

(c) A qualification removed in terms of paragraph (a) or a speciality removed in terms of paragraph (b), shall be restored to the register by the registrar upon the person concerned—

- (i) applying on the prescribed form for such restoration;
- (ii) paying the fee prescribed in respect of such restoration; and
- (iii) complying with such other requirements, if any, as the council may determine.

CHAPTER III

OFFENCES BY UNREGISTERED PERSONS

36. (1) Subject to the provisions of subsections (2) and (3) and section 37 any person, not registered as a medical practitioner or as an intern, who—

(a) for gain practises as a medical practitioner (whether or not purporting to be registered);

(b) for gain—

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

(c) except in accordance with the provisions of the Public Health Act, 1919 (Act No. 36 of 1919), the Nursing Act, 1957 (Act No. 69 of 1957), the Chiropractors Act, 1971 (Act No. 76 of 1971), and sections 32, 33, 34 and

Penalties for practising as a medical practitioner or as an intern, or for performing certain other acts, while unregistered.

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39 of this Act, performs any act whatsoever having as its object—

- (i) the diagnosing, treating or preventing of any physical 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 of, either for himself or for any other person, any other gain whatsoever;
- (d) pretends, or by any means whatsoever holds himself out, to be a medical practitioner or intern (whether or not purporting to be registered) or a healer, of whatever description, of physical defects, illnesses or deficiencies in man;
- (e) uses the name of medical practitioner, intern, healer 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 medical practitioner, physician or surgeon, or as an obstetrician or intern or of any other qualification enabling him to diagnose, treat or prevent physical defects, illnesses or deficiencies in man in any manner whatsoever, or that he is registered under this Act as a medical practitioner or an intern;
- (f) except in accordance with the provisions of the Public Health Act, 1919, the Nursing Act, 1957, the Chiropractors Act, 1971, 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 physical defects, illnesses or deficiencies in man or to prescribe or supply any medicine, substance or thing in respect of such defects, illnesses or deficiencies; or
- (g) (i) diagnoses, treats or offers to treat, or prescribes treatment or any cure for, cancer;
- (ii) holds himself out to be able to treat or cure cancer or to prescribe treatment therefor; or
- (iii) holds out that any article, compound, medicine or apparatus is or may be of value for the alleviation, curing or treatment of cancer,

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.

(2) The provisions of subsection (1) shall not prohibit—

(a) an intern from—

- (i) 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 medical practitioner, whether described in such law as a medical practitioner or by any other name or designation; or
- (ii) describing himself as a medical practitioner in connection with the performance of any such function or the issuing of any such certificate or other document,

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and any reference in any such law to such a medical practitioner shall be deemed to include a reference to an intern;

- (b) a pharmacist registered under the Pharmacy Act, 1974, from performing any act falling within the scope of his profession as contemplated in that Act; or
 - (c) a dentist from performing any act falling within the scope of his profession as contemplated in this Act or from using any name, title, description or symbol normally associated with his profession.
- (3) The provisions of subsection (1) (g) shall not—
- (a) apply in respect of any act performed by any person in the course of *bona fide* research at any institution approved for that purpose by the Minister;
 - (b) be construed as prohibiting a dentist from—
 - (i) diagnosing cancer while performing in respect of any person any act pertaining to the practice of dentistry; or
 - (ii) treating cancer so diagnosed;
 - (c) apply in respect of—
 - (i) any act performed by a pharmacist registered under the Pharmacy Act, 1974, or by an employee of such pharmacist acting within the scope of his employment, for the purposes of selling or promoting the sale of any medicine to another pharmacist or to any medical practitioner; or
 - (ii) the sale of any medicine by any pharmacist to any person in pursuance of a written prescription of a medical practitioner.

(4) For the purposes of subsection (1) "cancer" shall include all neoplasms, irrespective of their origin, including lymphoma and leukaemia.

37. (1) Subject to the provisions of subsections (3) and (5) and section 36, any person not registered as a 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;
 - (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

Penalties for practising as a psychologist or for performing certain other acts while unregistered.

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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 (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 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 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;
- (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.

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

- (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) Subject to the provisions of subsection (4), 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,

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1972 (Act No. 63 of 1972), the Basters 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),

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 any organization, recognized by the council, which performs services for the aid of persons with personal problems.

(4) The provisions of subsection (3) 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.

(5) 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 psychologist under this Act; and
- (b) prescribe the conditions on which such act may be performed by such person.

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38. (1) Subject to the provisions of subsection (3) any person, not registered as a dentist, who—

Penalties for practising as a dentist, or for performing certain other acts, while unregistered.

- (a) for gain, practises as a dentist (whether or not purporting to be registered), or performs any act specially pertaining to the practice of dentistry or takes in the mouth any impression or bite in connection with, or tries in or fits in the mouth, any artificial denture or other similar dental appliance for the purpose of making, repairing or supplying any such denture or dental appliance; or makes, repairs or supplies any artificial denture or other similar dental appliance if for the purpose of such making, repairing or supplying any impression or bite was taken or any trying in or fitting was done in the mouth by any person not registered as a dentist; or
- (b) pretends or by any means whatsoever holds himself out to be a dentist (whether or not purporting to be registered), or to be entitled to practise dentistry, or who uses the name of dentist 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 dentist, or that he is registered as a dentist or entitled to practise dentistry under this Act,

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.

(2) For the purposes of this Act the practice of dentistry means the performance of any such operation or the giving of any such treatment or advice as is usually performed or given by a dentist, or any operation, treatment or advice preparatory to or for the purpose of or in connection with the making, repairing, supplying, fitting, insertion or fixing of artificial dentures or other similar dental appliances.

(3) Nothing in this section contained shall be construed as prohibiting—

- (a) a medical practitioner, not registered also as a dentist, from performing in the course of his practice acts pertaining to the practice of dentistry in cases of emergency or where no dentist is readily available, or as prohibiting the employment by and under the supervision of a dentist of any person registered under the Dental Mechanics Act, 1945 (Act No. 30 of 1945), for the purpose of making or repairing dentures or other dental appliances, or as prohibiting any person from making or repairing any artificial denture or other dental appliances for his own profit, provided such work is carried out on the instructions and to the order of a dentist, and does not include the taking of any impression or bite or any trying in or fitting in the mouth;
- (b) a person registered under section 32 in respect of a profession connected with the practice of dentistry, from performing any acts pertaining to the practice of dentistry under the control of a medical practitioner or a dentist: Provided that the Minister may, on the recommendation of the council, by regulation provide that persons so registered in respect of any such profession specified in such regulations may perform such acts under the control of a dentist only.

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 unless he—

Prohibition of performance for gain of certain acts in prescribed areas by unregistered persons.

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- (a) is registered under section 32 in respect of such profession;
 - (b) is registered under section 32 in respect of any other profession to which also such act is under section 33 deemed to pertain;
 - (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), 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 five hundred rand or to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment.

40. Any person who is not registered under section 32 in respect of any supplementary health service profession, but pretends to be so registered in respect of such profession, 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.

Penalty for professing to be registered person.

CHAPTER IV

DISCIPLINARY POWERS OF THE COUNCIL

41. (1) The council shall have power to institute an inquiry into any complaint, charge or allegation of improper or disgraceful conduct against any person registered under this Act, and, on finding such person guilty of such conduct, to impose any of the penalties prescribed in section 42 (1): Provided that in the case of a complaint, charge or allegation which forms or is likely to form the subject of a criminal case in a court of law, the council may postpone the holding of an inquiry until such case has been determined.

Inquiry by council into charges of misconduct.

(2) The council may, whenever it is in doubt as to whether an inquiry should be held, in connection with the complaint, charge or allegation in question consult with or seek information from any person, including the person against whom the complaint, charge or allegation has been lodged.

42. (1) Every person registered under this Act who, after an inquiry held by the council, is found guilty of improper or disgraceful conduct, or conduct which, when regard is had to such person's profession, is improper or disgraceful, shall be liable to one or other of the following penalties—

Matters for and procedure at inquiry by the council.

- (a) a caution or a reprimand or a reprimand and a caution; or
- (b) suspension for a specified period from practising or performing acts specially pertaining to his profession; or
- (c) removal of his name from the register.

(2) Every person whose conduct is the subject of an inquiry under section 41, shall be afforded an opportunity, by himself or through his legal representative, of answering the charge and of being heard in his defence.

(3) Any penalty imposed by the council under subsection (1) shall be reduced to writing, shall be signed by the president of the council and shall be made known to the prescribed bodies and persons, and thereafter such writing shall be dealt with in the prescribed manner.

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- (4) (a) For the purposes of any inquiry held in terms of section 41, the council may take evidence and may, under the hand of the president or the registrar, summon witnesses and require the production of any book, record, document or thing, and may, through the president, administer an oath to any witness or accept an affirmation from him, and may examine any book, record, document or thing which any witness had been required to produce.
- (b) A summons to appear before the council as a witness or to produce to it any book, record, document or thing shall be, as nearly as practicable, in the prescribed form, shall be signed by the president or the registrar and shall be served either by registered letter sent through the post or in the same manner as it would have been served if it were a subpoena issued by a magistrate's court.
- (c) Every person summoned in terms of this subsection shall be bound to obey the summons and any person who, having duly been summoned—
- (i) refuses, or without sufficient cause fails, to attend and give evidence relevant to the inquiry at the time and place specified in the summons;
 - (ii) refuses to take the oath or to make an affirmation when required by the president to do so;
 - (iii) refuses to produce any book, record, document or thing which he has in terms of the summons been required to produce; or
 - (iv) attends before the council but refuses to answer, or to answer fully and satisfactorily to the best of his knowledge and belief, any question lawfully put to him,

shall be guilty of an offence and on conviction liable to a fine not exceeding one hundred rand: Provided that every 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 Court is entitled.

(5) The president of the council, where the council itself holds an inquiry in terms of section 41, or the chairman of a committee of the council, where such committee holds an inquiry under powers delegated to it by the council, may appoint a person with adequate experience in the administration of justice to be present as an assessor at such an inquiry and to advise the council or such committee, as the case may be, on matters of law, procedure or evidence.

(6) Any person aggrieved by a finding of or penalty imposed by the council in terms of this section, may, after notice to the council and within a period of two months after the date of such finding or the imposition of the penalty, appeal to the provincial or local division of the Supreme Court of South Africa having jurisdiction in the area wherein the appellant normally practises in the capacity in which he is registered, against such finding or penalty and the provisions of section 20 shall apply *mutatis mutandis* to such an appeal: Provided that no finding of or penalty imposed by the council shall be set aside by reason only of an irregularity which did not embarrass or prejudice the appellant in answering the charge or in the conduct of his defence.

(7) The council may, if it deems fit, and subject to such conditions, if any, as it may determine—

- (a) terminate any suspension under subsection (1) before the expiry of the specified period; or
- (b) on payment of the prescribed fee, restore to the register any name which has been removed therefrom.

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43. (1) Where the council finds a person referred to in section 42 (1) guilty of conduct referred to therein, it may—

Postponement of imposition of penalty and suspension of operation of penalty.

(a) postpone for such period and on such conditions as may be determined by it, the imposition of the penalty; or

(b) impose any penalty mentioned in paragraph (b) or (c) of section 42 (1), but order the execution of such penalty to be suspended for such period and on such conditions as may be determined by it.

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

(b) If the execution of a penalty has been suspended in terms of subsection (1) (b), and the council is satisfied that the person concerned has observed all relevant conditions throughout the period of suspension, the council shall inform such person that such penalty will not be executed.

(c) If the execution of a penalty has been suspended in terms of subsection (1) (b) and the person concerned fails to observe any of the conditions of suspension, the council shall put such penalty into operation, unless such person satisfies the council that the non-observance of the condition concerned was due to circumstances beyond his control.

44. Every person who has been suspended or whose name has been removed from the register in terms of section 42 shall, if his profession is one which, under this Act, cannot be lawfully carried on by an unregistered person, be disqualified from carrying on his profession and his registration certificate shall be deemed to be cancelled until the period of suspension has expired or until his name has been restored to the register by the council.

Effect of suspension or removal from register.

45. (1) Every registered person who, either before or after registration, has been convicted of any offence by a court of law may be dealt with by the council in terms of the provisions of this Chapter if the council is of the opinion that such offence constitutes improper or disgraceful conduct, or conduct which, when regard is had to such person's profession, is improper or disgraceful, and shall be liable on proof of the conviction to one or other of the penalties referred to in section 42: Provided that, before imposition of any penalty, such person shall be afforded an opportunity of tendering an explanation to the council in extenuation of the conduct in question.

Cognizance by council of conduct of registered persons under certain circumstances.

(2) Whenever in the course of any proceedings before any court of law it appears to the court that there is *prima facie* proof of improper or disgraceful conduct on the part of a registered person, or of conduct which, when regard is had to such person's profession, is improper or disgraceful, the court shall direct that a copy of the record of such proceedings, or such portion thereof as is material to the issue, shall be transmitted to the council.

(3) If the council exercises the powers conferred upon it by section 41, it shall appoint any person as *pro forma* complainant to present the case to the council: Provided that the registrar for the time being or any member of the council shall not be so appointed.

(4) The council may, subject to the provisions of the proviso to subsection (3), appoint a person to institute proceedings or to continue proceedings if the person appointed under that subsection is for any reason unable to do so.

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46. Any person who gives false evidence on oath at any inquiry held under this Chapter, knowing such evidence to be false, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for the crime of perjury. Penalty for false evidence.

47. Save as is provided in this Act, no legal proceedings, civil or criminal, shall lie against the council or any member or officer thereof in respect of any act done in good faith or duty performed in accordance with this Chapter. Limitation of liability.

48. (1) Any professional board established in terms of the provisions of section 15 may inquire into any complaint, charge or allegation against any person registered in terms of the provisions of this Act in respect of the profession for which such professional board was established, of improper or disgraceful conduct or conduct which, when regard is had to such person's profession, is improper or disgraceful: Provided that in the case of a complaint, charge or allegation which forms or is likely to form the subject of a criminal case in a court of law, such professional board may postpone the inquiry until such case has been determined. Inquiry by professional board of a profession into charges of misconduct by members of such profession.

(2) The professional board referred to in subsection (1) may, whenever it is in doubt as to whether an inquiry should be held, in connection with the complaint, charge or allegation in question consult with or seek information from any person, including the person against whom the complaint, charge or allegation has been lodged.

(3) The provisions of sections 42, 43, 46 and 47 shall *mutatis mutandis* apply in respect of any inquiry conducted by any professional board referred to in subsection (1) and in the application of such provisions the reference in section 42—

- (a) to the president of the council, shall be deemed to be a reference to the chairman of such professional board;
- (b) to the prescribed form of a summons shall be deemed to be a reference to such prescribed form with such modifications as may in any particular case be necessary to meet the circumstances.

(4) If the professional board conducting an inquiry under this section finds the person charged guilty of improper or disgraceful conduct or conduct which, when regard is had to such person's profession, is improper or disgraceful, it shall record its finding and inform such person thereof and at the same time inform such person of the penalty the imposition of which it intends to recommend to the council, and shall before the next ensuing meeting of the council submit the minutes of the proceedings at such inquiry, together with a recommendation as to a fit and proper penalty, to the council.

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

(6) If the council, after having considered such minutes and the representations submitted in terms of subsection (5) (if any) is of the opinion—

- (a) that the finding ought not to stand, it shall set such finding aside, and inform the person and the professional board concerned thereof; or
- (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.

(7) Any fine imposed under subsection (6) may be recovered and shall be dealt with in the manner prescribed.

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(8) Notwithstanding the provisions of section 41 (1) the council shall not under that section institute any inquiry into any complaint, charge or allegation of conduct referred to in that section against any person who practises a profession in respect of which a professional board has been established under section 15.

49. (1) The Council shall from time to time make rules specifying the acts or omissions in respect of which the council may take disciplinary steps under this Chapter: Provided that the powers of the council to inquire into and deal with any complaint, charge or allegation under this Chapter, shall not be limited to the acts or omissions so specified.

Council to make rules relating to offences under this Chapter.

(2) No rule made in terms of subsection (1) or any amendment or withdrawal thereof shall be of force and effect until approved by the Minister and published in the *Gazette*.

50. (1) The council may in respect of persons registered under section 18 as 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: Provided that the powers granted under that section to inquire into and deal with any complaint, charge or allegation shall not be limited to the acts or omissions so specified.

Council may after consultation with professional board concerned make rules specifying acts or omissions for the purposes of section 48.

(2) The provisions of section 49 (2) shall apply in respect of rules made in terms of subsection (1) of this section.

51. (1) Whenever it appears to the council that a person registered under this Act—

Restriction in or suspension from practice of registered person.

- (a) has become mentally or physically disabled to such an extent that it would be contrary to the public interest to allow him to continue to practise;
- (b) has become unfit to purchase, acquire, keep, use, administer, prescribe, order, supply or possess any scheduled substance;
- (c) has used, possessed, prescribed, administered or supplied any substance referred to in paragraph (b) regularly for other than medicinal purposes; or
- (d) has become addicted to the use of any substance referred to in paragraph (b),

the council shall cause the matter to be investigated and the council may, if it deems it necessary, hold an inquiry, *mutatis mutandis* in accordance with the provisions of section 42 and the regulations made under section 61 (1) (r), in respect of such person.

(2) If the council, after holding an inquiry under subsection (1), finds that any of the circumstances contemplated in paragraph (a), (b), (c) or (d) of that subsection exists in respect of the person concerned, it may, by order—

- (a) in the case of a person in respect of whom any of the circumstances contemplated in paragraph (a) of subsection (1) exists—
 - (i) suspend such person for a specified period from practising his profession or performing any act specially pertaining to his profession; or
 - (ii) impose such conditions as it may deem fit, subject to which such person shall be entitled to continue practising his profession; or
- (b) in the case of a person in respect of whom any of the circumstances contemplated in paragraph (b), (c) or (d) of subsection (1) exists—
 - (i) impose upon such person any of the penalties referred to in section 42 (1);

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- (ii) prohibit such person for a specified period from purchasing, acquiring, keeping, using, administering, prescribing, ordering, supplying or possessing any scheduled substance; or
- (iii) impose for a specified period such conditions as it may deem fit subject to which such person shall be entitled to purchase, acquire, keep, use, administer, prescribe, order, supply or possess any scheduled substance.

(3) The council may extend for any period determined by it, the period of operation of, withdraw, or in any other manner amend, any order made under subsection (2).

(4) The provisions of section 44 shall apply in respect of any person who has been suspended by virtue of any provision of subsection (2).

(5) Any person registered under this Act 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 one hundred rand.

(6) If a professional board has been established in terms of the provisions of section 15, such professional board may, in respect of a person registered in terms of the provisions of this Act in respect of the profession for which such professional board has been established, hold the inquiry referred to in subsection (1), and if such professional board holds such an inquiry it shall do so *mutatis mutandis* in accordance with the provisions of section 48.

(7) The provisions of subsection (1) (c) shall not apply in respect of the administration outside a hospital or an institution as contemplated in the definition of "medicinal purpose" in section 1, of any substance referred to in subsection (1) (b) for the satisfaction or relief of a habit or a craving for the substance administered or for any other such substance, provided such substance is administered—

- (a) in terms of an authority granted by the Minister;
- (b) subject to such conditions or requirements as may be stated in such authority; and
- (c) to the particular person specified in such authority.

CHAPTER V

GENERAL AND SUPPLEMENTARY PROVISIONS

52. Every medical practitioner or dentist shall 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.

Medical practitioners or dentists may dispense medicines.

53. (1) Every person registered under this Act (in this section referred to as the practitioner) shall, unless the circumstances render it impossible for him to do so, before rendering any professional services inform the person to whom the services are to be rendered or any person responsible for the maintenance of such person, of the fee which he intends to charge for such services—

Charges by registered persons.

- (a) when so requested by the person concerned; or
- (b) when such fee exceeds that usually charged for such services,

and shall in a case to which paragraph (b) relates, also inform the person concerned of the usual fee.

(2) Any practitioner who in respect of any professional services rendered by him claims payment from any person (in this section referred to as the patient) shall furnish the patient with a detailed account within a reasonable period.

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- (3) (a) The patient may, within three months after receipt of the account referred to in subsection (2) apply in writing to the council to determine the amount which in the opinion of the council should have been charged in respect of the services to which the account relates, and the council shall, as soon as possible after receipt of the application, determine the said amount and notify the practitioner and the patient in writing of the amount so determined: Provided that before the council determines the said amount, it shall afford the practitioner concerned an opportunity to submit to it in writing his case in support of the amount charged.
- (b) A determination made by the council under this section shall be final.
- (c) The Minister may, after consultation with the council, make such regulations as he may deem necessary in relation to the procedure which the council shall follow in disposing of an application under this subsection.
- (4) A claim which is the subject of an application referred to in subsection (3) of which notice has been given by the council or the patient to the practitioner, shall not be recoverable until a determination has been made in terms of that subsection, and when such a determination has been made no amount which exceeds the amount so determined, shall be payable.
- (5) This section shall not be deemed to divest the council of any of its powers or functions under Chapter IV with regard to acts or omissions in respect of which it may take disciplinary steps.
- (6) For the purposes of this section "professional services" shall include the supply of any artificial part for the human body and the fitting of such part to the human body.

54. If an account in respect of which an application has been lodged in terms of section 53 (3) (a) is one furnished in respect of professional services rendered by any person registered under section 18 as a psychologist or under section 32 in respect of any supplementary health service profession, the council shall make a determination in terms of section 53 (3) only after consultation with the professional board established in respect of the profession in question, if a professional board has been so established.

Consultation by council with professional board in case of certain determinations under section 53 (3).

55. Any person who—

- (a) procures or attempts to procure for himself or any other person registration under this Act or 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 so doing;
- (b) makes or causes to be made any unauthorized 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) makes or causes to be made a false declaration on any identification envelope issued in connection with an election contemplated in section 5 (1) (e);
- (d) 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;
- (e) forges or, knowing it to be forged, utters any document purporting to be a certificate issued under this Act;
- (f) impersonates any person registered in terms of this Act; or

Penalty for false representation inducing registration, for false entries in register and for impersonation.

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- (g) supplies or offers to supply to any person not registered under this Act or the Nursing Act, 1957 (Act No. 69 of 1957), 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 gain an act which such unregistered person is in terms of the provisions of this Act or the said Nursing Act prohibited from performing for gain,

shall be guilty of an offence and on conviction liable to a fine not exceeding one thousand rand.

56. The death of a person whilst under the influence of a general anaesthetic or local anaesthetic, or of which the administration of an anaesthetic has been a contributory cause, shall not be deemed to be a death from natural causes as contemplated in the Inquests Act, 1959 (Act No. 58 of 1959), or the Births, Marriages and Deaths Registration Act, 1963 (Act No. 81 of 1963).

Death of person
under anaesthetic.

57. (1) No medical practitioner or dentist shall accept or obtain from a pharmacist any commission or other reward in connection with any prescription given by such medical practitioner or dentist.

Commission on
prescriptions.

(2) Any medical practitioner or dentist who contravenes the provisions of subsection (1) shall be guilty of an offence and on conviction liable to a fine not exceeding two hundred rand and in addition, may be dealt with by the council in terms of the provisions of Chapter IV.

58. (1) In any criminal proceedings against any person appearing upon a charge of having performed any act which constitutes an offence under this Act if performed by a person who is not registered or who is not in possession of any document specified in the charge, the accused shall be deemed to have been unregistered or not to have been in possession of such document at the time of the commission of the alleged offence, unless he proves the contrary.

Onus of proof.

(2) In any criminal proceedings against any person appearing upon a charge of having performed an act which constitutes an offence under this Act if performed by him for gain, the accused shall be deemed to have performed such act for gain if he has accepted any valuable consideration in respect of such act.

59. (1) No remuneration shall be recoverable in respect of any act specially pertaining to the profession of a registered person when performed by a person who is not authorized under this Act to perform such act for gain.

Limitations in
respect of unregis-
tered persons.

(2) No person other than a registered person holding the necessary qualifications shall be eligible for or entitled to hold any appointment to any establishment, institution, body, organization or association, whether public or private, if such appointment involves the performance of any act which an unregistered person, in terms of the provisions of this Act, may not perform for gain: Provided that nothing in this subsection contained shall be construed as prohibiting the training of medical, dental or psychology students under the supervision of a medical practitioner, dentist or psychologist, as the case may be, or the employment in any hospital or similar institution of any person undergoing training with a view to registration under section 32 in respect of any supplementary health service pro-

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fession, under the supervision of a medical practitioner, dentist or person registered under section 32 in respect of the supplementary health service profession in question.

60. (1) Notwithstanding anything to the contrary in any law contained, any person who has been authorized by the council in writing to investigate any matter relating to the teaching or training of any class of persons who is undergoing such teaching or training for the purpose of qualifying themselves for the practising of any profession to which the provisions of this Act apply, may, for the purpose of making such investigation, enter any institution or premises utilized in the teaching or training of any such class of person.

Investigation of matters relating to the teaching or training of certain classes of persons.

(2) Any person who prevents any person authorized in terms of subsection (1) from entering any institution or premises referred to in that subsection, or who hinders him in the making therein or thereon of any investigation contemplated in that subsection, shall be guilty of an offence and on conviction liable to a fine not exceeding one hundred rand.

61. (1) The Minister may, on the recommendation of the council, make regulations relating to—

Regulations.

- (a) the conduct of the business and the procedure at meetings of the council, committees of the council and professional boards and the manner in which minutes of such meetings shall be kept;
- (b) the manner in which contracts shall be entered into on behalf of the council, the accounts of the council shall be kept and money accruing to the council shall be disposed of;
- (c) the allowances which may be paid to members when engaged on the service of the council: Provided that—
 - (i) the allowances which may be paid to any such member who is in the full-time employment of the State shall not exceed the allowances to which he would be entitled under the laws governing the public service;
 - (ii) no such member shall be required to pay into the Consolidated Revenue Fund any allowances which may be paid to him by the council in terms of any regulation made under this paragraph;
- (d) the duties and conditions of service of the registrar and other officers appointed by the council in terms of section 12;
- (e) any fees payable under this Act;
- (f) the forms of the registers to be kept in terms of the provisions of this Act and of all certificates issuable under this Act and the manner in which alterations may be effected in such registers;
- (g) the forms to be completed and the documents to be submitted by applicants for registration or for restoration to the register;
- (h)
 - (i) the registration by the council of medical, dental or psychology students studying at any university and the fees payable in respect of such registration;
 - (ii) the standards of general education required of such students as a condition precedent to such registration;
 - (iii) the duration of the curricula to be followed by such students at such university;
 - (iv) the minimum requirements of the curricula and the standards of education and examinations in medicine, dentistry or psychology which shall be maintained at every university at which a medical,

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dental or psychology faculty has been established, in order to secure recognition under this Act of the qualifications in medicine, dentistry or psychology obtained at such university;

- (i) the nature and duration of the training to be undergone by any person who has obtained a qualification in medicine prescribed under section 24 or 25, but who is not yet registered as a medical practitioner, before he may be registered as such;
- (j) the circumstances under which any person referred to in paragraph (i) shall be entitled to exemption from such training;
- (k) the minimum ages of persons eligible for registration as medical practitioners, interns, dentists or psychologists;
- (l)
 - (i) the minimum age and the standard of general education required of a candidate for examination for a certificate entitling the holder thereof to registration under section 32 in respect of any supplementary health service profession;
 - (ii) the persons who may be admitted to such examinations;
 - (iii) the courses of study and the training required for such examinations;
 - (iv) the institutions at which such courses or training may be taken or undergone and any other requirements in connection with such study or training;
 - (v) the fees payable by candidates for such examinations;
 - (vi) the appointment and remuneration of examiners for such examinations;
 - (vii) the issue of certificates by the council and any other matter incidental to such examinations or the issue of such certificates;
- (m) the conditions under which any practitioner of a supplementary health service profession may practise his profession;
- (n)
 - (i) the registration of interns, including the recording of particulars of their training and proof of the performance thereof;
 - (ii) the hospitals or other institutions at which, or the persons with whom, such training may be undertaken;
 - (iii) any other matter incidental to the registration or training of interns;
- (o) the qualifications which may be registered as additional qualifications in terms of section 35;
- (p)
 - (i) the registration in terms of section 35, of the specialities of medical practitioners, dentists or psychologists;
 - (ii) the requirements to be satisfied, including the experience to be obtained, the nature and duration of the training to be undergone and the qualifications to be held, by medical practitioners, dentists or psychologists before any speciality may be registered;
 - (iii) the circumstances in which any applicant for the registration of a speciality shall be exempted from any of such requirements;
 - (iv) conditions in respect of the practice of medical practitioners, dentists or psychologists whose specialities have been registered, including conditions restricting the practice of any such medical

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practitioner, dentist or psychologist to the speciality registered in his name;

- (q) (i) the election of members of the council required to be elected in terms of section 5 (1) (e);
- (ii) the requirements for a valid nomination of a candidate for election as a member of the council;
- (r) the conduct of an inquiry held in terms of section 41, including—
 - (i) the manner in which complaints or charges brought against a registered person shall be lodged;
 - (ii) the method of summoning an accused person and the penalties for failure or refusal on the part of any such person to attend as summoned or for obstructing or interrupting the proceedings;
 - (iii) any other matter relating to the conduct of such an inquiry;
- (s) any matter which in terms of any provision of this Act is required to be or may be prescribed by regulation;
- (t) generally, all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

(2) The Minister may, after consultation with the executive committee of the council, if he deems it to be in the public interest—

- (a) without the recommendation of the council, make regulations relating to any of the matters referred to in subsection (1) or amend or repeal any regulation made in terms of that subsection;
- (b) amend or repeal any rule made in terms of the provisions of this Act.

(3) Any regulation made under this section may prescribe penalties for any contravention thereof or failure to comply therewith, not exceeding a fine of fifty rand.

(4) Any proclamation or notice issued or regulation, rule or order made under this Act may from time to time be amended or repealed by the authority which issued or made it.

62. (1) The Minister may, on the recommendation of the council, at any time by notice in the *Gazette* authorize the council to prescribe a fee to be paid annually to the council by every medical practitioner and every dentist: Provided that in prescribing such fee the council may differentiate between persons according to whether they have been registered before or after a date specified in the notice.

Levying of annual fees on certain registered persons.

(2) If any person liable to pay any annual fee prescribed in terms of subsection (1) fails or refuses to pay such fee within the period specified in the notice in question, the council may recover such fee by action in a competent court.

(3) If a person's name has been removed from the register in terms of the provisions of section 19 (1) (d), it shall be a condition precedent for the restoration of his name to the register that he pays the outstanding annual fee.

(4) The council may by resolution exempt for an indefinite or definite period any medical practitioner or dentist specified in the resolution from payment of any annual fee prescribed in terms of subsection (1).

63. (1) The Minister may, on the recommendation of the council, at any time by notice in the *Gazette* authorize the council to prescribe a fee to be paid annually to the council by all persons registered under section 18 as psychologists or registered under section 32 in respect of any supplementary health service profession specified in the notice: Provided that where a professional board has in terms of section 15 been established in respect of the profession to which such notice will relate, the

Levying of annual fees on persons registered as psychologists or under section 32.

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council shall make such recommendation only after consultation with that professional board: Provided further that in prescribing such fee, the council may differentiate between persons according to whether they have been registered before or after a date specified in the notice.

(2) If any person liable to pay any annual fee prescribed in terms of subsection (1), fails or refuses to pay such fee within the period specified in the notice in question, the council may recover such fee by action in a competent court.

(3) If a person's name has been removed from the register in terms of the provisions of section 19 (1) (d), it shall be a condition precedent for the restoration of his name to the register that he pays the outstanding annual fee.

(4) The council may by resolution exempt for an indefinite or definite period any person specified in the resolution and registered under section 18 as a psychologist or registered under section 32 in respect of any supplementary health service profession, from payment of any annual fee prescribed in terms of subsection (1): Provided that where a professional board has in terms of section 15 been established for the profession in respect of which the person concerned is registered, the council shall adopt such resolution only after consultation with such professional board.

64. (1) Subject to the provisions of subsections (2), (3) and (4), the laws specified in the Schedule are hereby repealed to the extent set out in the third column of the said Schedule. Repeal of laws.

(2) Any proclamation, notice, regulation, rule, authorization or order issued, made or granted, or any registration, removal from a register, appointment or any other thing done in terms of a provision of any law repealed by subsection (1), shall, except in so far as may be otherwise required by this Act, be deemed to have been issued, made, granted or done under the provisions of this Act.

(3) The members of the council as constituted immediately prior to the commencement of this Act shall continue to be members, and the council shall be deemed to be validly constituted in terms of this Act, until a date determined by the Minister and published in the *Gazette*.

(4) If any of the members referred to in subsection (3) vacates his office, the council shall, until the date referred to in that subsection, consist of the remaining members.

65. This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel. Application of Act in South West Africa.

66. This Act shall be called the Medical, Dental and Supplementary Health Service Professions Act, 1974, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. Short title and commencement.

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Schedule

LAWS REPEALED

No. and year of law	Title	Extent of repeal
Act No. 13 of 1928	Medical, Dental and Pharmacy Act, 1928	The whole except sections 83 and 83 <i>bis</i>
Act No. 2 of 1935	Medical, Dental and Pharmacy Amendment Act, 1935	The whole
Act No. 5 of 1937	Medical, Dental and Pharmacy Amendment Act, 1937	The whole
Act No. 41 of 1944	Medical, Dental and Pharmacy Act Amendment Act, 1944	The whole
Act No. 30 of 1945	Dental Mechanics Act, 1945	Section 35
Act No. 14 of 1946	Medical, Dental and Pharmacy Amendment Act, 1946	The whole
Act No. 13 of 1950	Medical, Dental and Pharmacy Amendment Act, 1950	The whole
Act No. 23 of 1951	Medical, Dental and Pharmacy Amendment Act, 1951	The whole
Act No. 29 of 1954	Medical, Dental and Pharmacy Amendment Act, 1954	The whole
Act No. 11 of 1957	Medical, Dental and Pharmacy Amendment Act, 1957	The whole
Act No. 69 of 1961	Medical, Dental and Pharmacy Amendment Act, 1961	The whole
Act No. 34 of 1962	Medical, Dental and Pharmacy Amendment Act, 1962	The whole
Act No. 44 of 1969	Medical, Dental and Pharmacy Amendment Act, 1969 .	The whole
Act No. 41 of 1971	Abuse of Dependence-producing Substances and Reha- bilitation Centres Act, 1971	Sections 54 to 61 inclusive
Act No. 43 of 1971	Medical, Dental and Pharmacy Amendment Act, 1971	The whole
Act No. 95 of 1971	Drugs Laws Amendment Act, 1971	Sections 1 to 6 inclusive
Act No. 16 of 1973	Medical, Dental and Pharmacy Amendment Act, 1973	The whole