

## HEALTH PROFESSIONS ACT 56 OF 1974

(Former title: Medical, Dental and Supplementary Health Service Professions Act)

(Afrikaans text signed by the State President)

*[Assented To: 9 October 1974]*

*[Commencement Date: 21 February 1975]*

### as amended by:

General Law Amendment Act 57 of 1975

Medical, Dental and Supplementary Health Service Professions Amendment Act 33 of 1976

Health Laws Amendment Act 36 of 1977

Medical, Dental and Supplementary Health Service Professions Amendment Act 52 of 1978

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

Medical, Dental and Supplementary Health Service Professions Amendment Act 66 of 1981

Medical, Dental and Supplementary Health Service Professions Amendment Act 38 of 1982

Medical, Dental and Supplementary Health Service Professions Amendment Act 58 of 1984

Transfer of Powers and Duties of the State President Act 97 of 1986

Medical, Dental and Supplementary Health Service Professions Amendment Act 79 of 1990

Medicines and Related Substances Control Amendment Act 94 of 1991

Medical, Dental and Supplementary Health Service Professions Amendment Act 58 of 1992

Medical Schemes Amendment Act 23 of 1993

Government Notice R. 1140 of 1 July, 1994

Medical, Dental and Supplementary Health Service Professions Amendment Act 18 of 1995

Abolition of Restrictions on the Jurisdiction of Courts Act 88 of 1996

Government Notice R.19 of 3 January 1997

Extension of Terms of Office of Members of Certain Councils Act 45 of 1997

Medical, Dental and Supplementary Health Service Professions Amendment Act 89 of 1997

Medical, Dental and Supplementary Health Service Professions Amendment Act 1 of 1998

**Health Professions Amendment Act 29 of 2007**

[certain sections with effect from 1 August 2008 – Proc. R30 / GG 31252 / 20080718]

### **Note:**

**The Act has been amended by s. 57 of Act 29/2007, by-**

**The substitution for the words “he”, “him”, “his” and “himself”, wherever they occur, of the expressions “he or she”, “him or her”, “his or her” and “himself or herself”, respectively. The substitution does not apply if the application would be clearly inappropriate.**

## ACT

**To establish the Health Professions Council of South Africa and professional boards; to provide for control over the education, training and registration for and practising of health professions registered under this Act; and to provide for matters incidental thereto.**

[Long title substituted by s. 13 of Act 18/95, s.66 of Act 89/97 and s. 56 of Act 29/2007]

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## **1. Definitions**

In this Act, unless the context otherwise indicates -

**“Ciskeian Medical Council”** .....

[Definition of “Ciskeian Medical Council” inserted by s. 1 of Act 18/95 and deleted by s. 1 of Act 89/97]

**“accredit”** means recognition or certification by the council or the relevant professional board in terms of this Act or any other Act as meeting the prescribed education and training requirements;

[Definition of “accredit” inserted by s. 1 of Act 29/2007]

**“community representative”** means a person appointed by the Minister as a community representative and who is not registered in terms of this Act.

[Definition of “community representative” inserted by s. 1 of Act 29/2007]

**“council”** means the council referred to in [section 2](#);

**“dentist”** means a person registered as such under this Act;

**“Director-General”** means the Director-General: Health or his or her nominee;  
[Definition of “Director-General” inserted by s. 1 of Act 18/95]

**“fruitless and wasteful expenditure”** has the same meaning as assigned to it in [section 1](#) of the Public Finance Management Act, 1999 (Act No. 1 of 1999);  
[Definition of “fruitless and wasteful expenditure” inserted by s. 1 of Act 29/2007]

**“health practitioner”** means any person, including a student, registered with the council in a profession registrable in terms of this Act;  
[Definition of “health practitioner” inserted by s. 1 of Act 29/2007]

**“health profession”** means any profession for which a professional board has been established in terms of [section 15](#) and includes any category or group of persons provided for by such a board;  
[Definition of “health profession” inserted by s. 1 of Act 29/2007]

**“impairment”** refers to a condition which renders a practitioner incapable of practising a profession with reasonable skill and safety;  
[Definition of “impaired” inserted by s. 1 of Act 89/97 and substituted by the definition of “impairment” by s. 1 of Act 29/2007]

**“Interim National Medical and Dental Council of South Africa”** .....  
[Definition of “Interim National Medical and Dental Council of South Africa” inserted by s. 1 of Act 89/97 and deleted by s. 1 of Act 29/2007]

**“intern”** means a person registered as such under this Act in a profession which provides for internship training;  
[Definition of “intern” substituted by s. 1 of Act 29/2007]

**“intern-psychologist”** means a person registered as such under this Act;  
[Definition of “intern-psychologist” inserted by s. 1 of Act 33/76]

**“irregular expenditure”** means expenditure other than unauthorised expenditure-

- (a) incurred in contravention of or that is not in accordance with a requirement of any applicable legislation; or
  - (b) that falls outside of the scope of the functions of the council or a professional board contemplated in this Act;
- [Definition of “irregular expenditure” inserted by s. 1 of Act 29/2007]

**“medical practitioner”** means a person registered as such under this Act;

**“medicine”** means medicine as defined in [section 1](#) of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965);

**“medicinal purposes”** 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 approved for that purpose by the Minister;

[Definition of “medicinal purposes” substituted by s. 1 of Act 58/92]

**“member”** means a member of the council or of a professional board;

[Definition of “member” substituted by s. 1 of Act 58/92]

**“Minister”** means the Minister of Health;

[Definition of “Minister” substituted by s. 1 of Act 58/84, s. 1 of Act 58/92 and s. 1 of Act 18/95]

**“prescribe”** means prescribe by regulation and **“prescribed”** shall have a corresponding meaning;

**“president”** means the president of the council;

**“professional board”** means a professional board established in terms of any of the provisions of [section 15](#);

**“professional category”** means the division or subdivision of a field in which any registered health profession may be practised;

[Definition of “professional category” inserted by s. 1 of Act 29/2007]

**“public representative”** means a person appointed by the council to serve in the committees or subcommittees of the Council or professional boards for a particular purpose, and who is not registered in any of the professions falling under this Act;

[Definition of “public representative” inserted by s. 1 of Act 29/2007]

**“psychologist”** means a person registered as such under this Act;

**“qualification”** means any degree, diploma or certificate awarded after examination of a person’s proficiency in a particular subject;

**“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 registration category or a member of any such category of persons in respect of which a register is kept, means the register kept for that category;

[Definition of “register” substituted by s. 1 of Act 29/2007]

**“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;

**“registrar”** means the registrar appointed under [section 12](#) or a person lawfully acting in that capacity;

**“regulation”** means any regulation made under this Act;

**“Republic”** .....

[Definition of “Republic” deleted by s. 1 of Act 58/92]

**“rule”** means any rule made under this Act;

**“scheduled substance”** means a scheduled substance as defined in [section 1](#) of the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965);

[Definition of “scheduled substance” substituted by s. 24 of Act 94/91 and s. 1 of Act 89/97]

**“South African Medical and Dental Council”** .....

[Definition of “South African Medical and Dental Council” inserted by s. 1 of Act 18/95 and deleted by s. 1 of Act 89/97]

**“speciality”**, in relation to a person registered in respect of any profession under this Act, means any particular discipline, division or subdivision of a profession which is recognised under this Act as a speciality in which such person specialises or intends to specialise;

[Definition of “speciality” inserted by s. 1 of Act 38/82 and substituted by s. 1 of Act 29/2007]

**“student intern”** means a person registered as such under this Act;

[Definition of “student intern” inserted by s. 12 of Act 36/77]

**“supplementary health service profession”** .....

[Definition of “supplementary health service profession” deleted by s. 1 of Act 89/97]

**“tariff of fees”** .....

[Definition of “tariff of fees” inserted by s. 1 of Act 52/78 and deleted by s. 1 of Act 58/84]

**“this Act”** includes the regulations, rules and any proclamation or order issued or made under this Act;

**“Transkeian Medical Council”** .....

[Definition of “Transkeian Medical Council” inserted by s. 1 of Act 18/95 and deleted by s. 1 of Act 89/97]

**“unprofessional conduct”** means improper or disgraceful or dishonourable or unworthy conduct or conduct which, when regard is had to the profession of a person who is registered in terms of this Act, is improper or disgraceful or dishonourable or unworthy;

[Definition of “unprofessional conduct” inserted by s. 1 of Act 89/97]

“**vice-president**” means the vice-president of the council.

## CHAPTER I

### **ESTABLISHMENT, OBJECTS, FUNCTIONS AND POWERS OF THE HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA AND OF PROFESSIONAL BOARDS**

[Heading substituted by s. 2 of Act 18/95, s. 2 of Act 89/97 and s. 2 of Act 29/2007]

[\(Section2: Decided cases\)](#)

#### **2. Establishment of Health Professions Council of South Africa**

- (1) There is hereby established a juristic person to be known as the Health Professions Council of South Africa and the first meeting of the council shall be convened by the registrar.
- (2) The head office of the council shall be situated in Pretoria.  
[S. 2 substituted by s. 3 of Act 18/95 and s. 3 of Act 89/97]

#### **3. Objects and functions of council**

[Heading substituted by s. 3 of Act 29/2007]

**The objects and fuctions of the council are -**

[Words preceding para. (a) substituted by s. 3 of Act 29/2007]

- (a) to co-ordinate the activities of the professional boards established in terms of this Act and to act as an advisory and communicatory body for such professional boards;
- (b) to promote and to regulate interprofessional liaison between health professions in the interest of the public;  
[Para. (b) substituted by s. 3 of Act 29/2007]
- (c) to determine strategic policy in accordance with national health policy as determined by the Minister, and to make decisions in terms thereof, with regard to the professional boards and the health professions, for matters such as finance, education, training, registration, ethics and professional conduct, disciplinary procedure, scope of the professions, interprofessional matters and maintenance of professional competence;  
[Para. (c) substituted by s. 3 of Act 29/2007]
- (d) to consult and liaise with relevant authorities on matters affecting the professional boards in general;
- (e) to assist in the promotion of the health of the population of the Republic;



(f) subject to legislation regulating health care providers and consistency with national policy determined by the Minister, to control and to exercise authority in respect of all matters affecting the education and 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 human kind;

[Para. (f) substituted by s. 3 of Act 29/2007]

(g) to promote liaison in the field of education and training referred to in paragraph (f), both in the Republic and elsewhere, and to promote the standards of such education and training in the Republic;

[Para. (g) substituted by s. 3 of Act 29/2007]

(h) to advise the Minister on any matter falling within the scope of this Act in order to support the universal norms and values of health professions, with greater emphasis on professional practice, democracy, transparency, equity, accessibility and community involvement;

[Para. (h) amended by s. 3 of Act 29/2007]

(i) to communicate to the Minister information of public importance acquired by the council in the course of the performance of its functions under this Act.

[S. 3 amended by s. 2 of Act 58/92, s. 4 of Act 18/95 and s. 3 of Act 45/97 and substituted by s. 4 of Act 89/97]

(j) to serve and protect the public in matters involving the rendering of health services by persons practising a health profession;

[Para. (j) added by s. 3 of Act 29/2007]

(k) to exercise its powers and discharge its responsibilities in the best interest of the public and in accordance with national health policy determined by the Minister;

[Para. (k) added by s. 3 of Act 29/2007]

(l) to be transparent and accountable to the public in achieving its objectives and when performing its functions and exercising its powers;

[Para. (l) added by s. 3 of Act 29/2007]

(m) to uphold and maintain professional and ethical standards within the health professions;

[Para. (m) added by s. 3 of Act 29/2007]

(n) to ensure the investigation of complaints concerning persons registered in terms of this Act and to ensure that appropriate disciplinary action is taken against such persons in accordance with this Act in order to protect the interest of the public;

[Para. (n) added by s. 3 of Act 29/2007]

(o) to ensure that persons registered in terms of this Act behave towards users of health services in a manner that respects their constitutional rights to human dignity, bodily

and psychological integrity and equality, and that disciplinary action is taken against persons who fail to act accordingly;

[Para. (o) added by s. 3 of Act 29/2007]

(p) to submit to the Minister-

(i) a five-year strategic plan within six months of the council coming into office which includes details as to how the council plans to fulfil its objectives under this Act;

(ii) every six months a report on the status of health professions and on matters of public importance that have come to the attention of the council in the course of the performance of its functions under this Act; and

(iii) an annual report within six months of the end of the financial year; and

[Para. (p) added by s. 3 of Act 29/2007]

(q) to ensure that an annual budget for the council and the professional boards is drawn up and that the council and the professional boards operate within the parameters of such budget.

[Para. (q) added by s. 3 of Act 29/2007]

#### 4. General powers of council

The council may -

(a) acquire, hire or dispose of property, borrow money on the security of the assets of the council and accept and administer any trust or donation;

(b) render financial assistance to professional boards in order to enable such boards to perform their functions;

(c) after consultation with the relevant professional board, consider any matter affecting the health professions registrable under this Act and, consistent with national health policy determined by the Minister, make representations or take such action in connection therewith as the council deems necessary;

[Para. (c) substituted by s. 4 of Act 29/2007]

(d) consistent with national health policy determined by the Minister, make rules on all matters which the council considers necessary or expedient in order that the objects of this Act may be achieved;

[Para. (d) substituted by s. 4 of Act 29/2007]

(e) delegate to any professional board or committee or any person such of its powers as it may determine, but shall not be divested of any power so delegated; and

[Para. (e) substituted by s. 4 of Act 29/2007]

- (f) perform such other functions as may be prescribed, and do all such things as the council deems necessary or expedient to achieve the objects of this Act within the framework of national health policy determined by the Minister.

[S. 4 substituted by s. 5 of Act 89/97 and s. 4 of Act 29/2007]

**5. Constitution of council**

- (1) The council shall be representative and shall consist of the following members, namely -

- (a) not more than 16 persons designated by the professional boards, on a basis proportional to the number of persons registered to practise the professions falling under each professional board: Provided that each professional board shall be entitled to designate at least one person registered in terms of this Act;

[Para. (a) substituted by s. 5 of Act 29/2007]

- (b) one person in the employment of the Department of Health, appointed by the Minister;

- (c) one person in the employment of the Department of Education, appointed by the Minister of Education;

- (d) nine community representatives not registered in terms of this Act, appointed by the Minister;

[Para. (d) substituted by s. 5 of Act 29/2007]

- (e) one person from the South African Military Health Service, appointed by the Minister of Defence;

[Para. (e) substituted by s. 5 of Act 29/2007]

- (f) three persons appointed by the South African University Vice-Chancellors' Association; and

[Para. (f) substituted by s. 5 of Act 29/2007]

- (g) .....

[Para. (g) deleted by s. 5 of Act 29/2007]

- (h) .....

[Para. (h) deleted by s. 5 of Act 29/2007]

- (i) one person versed in law, appointed by the Minister.

- (2) 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 redesignation or reappointment for one more term.

- (3) Not less than three months prior to the date of expiry of the term of office of the members of the council, the persons and bodies referred to in subsection (1), except the Minister, shall inform the registrar in writing of the names of the persons to be designated or appointed by them in terms of that subsection.
- (4) As soon as possible after the process referred to in subsection (3), the Minister shall inform the registrar of the names of the persons to be appointed by the Minister in terms of subsection (1).
- (5) If any of the persons or bodies referred to in subsection (1), except the Minister, fails to make a designation or an appointment or to inform the registrar in terms of subsection (3) of the names of the persons to be designated or appointed by them, the Minister shall make the necessary designation or appointment, and any designation or appointment so made by the Minister shall be deemed to have been properly made in terms of the appropriate paragraph of subsection (1).
- (6) 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.
- (7) A person may not be appointed as a member of the Council if he or she is, at the time of his or her appointment, or was, during the preceding 12 months-
  - (a) a member of a municipal council, a provincial legislature or Parliament; or
  - (b) a provincial or national office bearer or employee of any party, organisation or body of a political nature.

[Subs. (7) added by s. 5 of Act 29/2007

[S. 5 amended by s. 2 of Act 52/78, s. 2 of Act 58/84, s. 1 of Act 79/90 and s. 3 of Act 58/92, substituted by s. 5 of Act 18/95, amended by s. 4 of Act 45/97 and s. 1 of Act 1/98 and substituted by s. 6 of Act 89/97]

## **6. Vacation of office and filling of vacancies**

- (1) A member of the council shall vacate his or her office if -
  - (a) his or her estate is sequestrated or he or she has entered into a composition with the creditors of his or her estate;
  - (b) he or she has been absent without leave of the president from more than two consecutive ordinary meetings of the council or of a committee referred to in [section 10](#);
  - (c) he or she has been found guilty of unprofessional conduct under this Act;

[Para. (b) substituted by s. 6 of Act 29/2007]

[Para. (c) substituted by s. 6 of Act 29/2007]

(d) he or she ceases to hold any qualification necessary for his or her designation or appointment or tenders his or her resignation in writing to the person or body by whom he or she was designated or appointed and that person or body accepts his or her resignation;

(e) he or she ceases to be a South African citizen;

(f) he or she becomes mentally ill to such a degree that it is necessary that he or she be detained, supervised or controlled;

[Para. (f) substituted by s. 6 of Act 29/2007]

(g) he or she is convicted of an offence in respect whereof he or she is sentenced to imprisonment without the option of a fine;

[Para. (g) substituted by s. 6 of Act 29/2007]

(h) the Minister, in the public interest and for just cause, and after consultation with the person or body by whom the member was designated or appointed, terminates his or her membership.

(i) he or she deliberately acts in a manner that will prejudice the interests of the council, the health professions or the public or violates the Charter of the council;

[Para. (i) added by s. 6 of Act 29/2007]

(j) the Minister dissolves the council in terms of this Act;

[Para. (j) added by s. 6 of Act 29/2007]

(k) he or she is an office bearer of an organisation that has a conflict of interest with the council, unless such member elects to immediately vacate his or her office in that organisation; or

[Para. (k) added by s. 6 of Act 29/2007]

(l) he or she becomes-

(i) a member of a municipal council, a provincial legislature or Parliament;  
or

(ii) a provincial or national office bearer or employee of any party, organisation or body of a political nature.

[Para. (l) added by s. 6 of Act 29/2007]

(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 designation or appointment by the person or body by whom and in the manner in

which the vacating member was designated or appointed, and every member so designated or appointed shall hold office for the unexpired portion of the period for which the vacating member was designated or appointed.

[S. 6 amended by s. 46 of Act 97/86 and s. 6 of Act 18/95 and substituted by s. 7 of Act 89/97]

(3)

(a) The Minister may dissolve the council if the council fails to comply with any of the provisions of this Act.

(b) All the functions of the council are vested in the Minister until a new council is appointed.

[Subs. (3) added by s. 6 of Act 29/2007]

(4)

(a) The Minister may in writing request copies of the records, including minutes of meetings and financial statements, of the council in order to ascertain the extent of the council's compliance with the provisions of this Act and the Charter.

(b) The registrar must furnish copies of all such records within 15 days of the date of the Minister's request.

[Subs. (4) added by s. 6 of Act 29/2007]

(5) If the Minister reasonably believes that the council is failing to comply with the provisions of this Act or the Charter, he or she may appoint a person or persons to investigate the affairs of the council and to prepare a report upon such investigation.

[Subs. (5) added by s. 6 of Act 29/2007]

(6) The Minister may terminate membership of a member of the council where the member-

(a) fails to perform the duties of a member in terms of this Act or the Charter;

(b) obstructs or impedes the council or other members in the fulfilment of their functions in terms of this Act or the Charter;

(c) fails to declare a conflict of interest between his or her affairs and those of the council;

(d) acts in a manner that is likely to bring the council or health profession into disrepute;

(e) misuses or misappropriates council funds or resources; or

(f) approves or engages in unauthorised or irregular expenditure or fruitless and wasteful expenditure;

[Subs. (6) added by s. 6 of Act 29/2007]

## 7. **President and vice-president**

- (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.
- (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)

(a) 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.

(b) If both the president and vice-president are temporarily absent for any reason, the president or vice-president may appoint another member of the executive committee of the council to act in their place.

[Subs. (3) substituted by s. 7 of Act 29/2007]

- (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 vice-president are absent or unable to perform their functions in terms of this Act, 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.

[Subs. (5) substituted by s. 7 of Act 29/2007]

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

## 8. **Meetings of the council**

- (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.

(2)

(a) The president may at any time convene a special meeting of the council, to be held on such a date and at such place as he or she may determine and he or she shall, upon a written request by the Minister or a written request signed by at least one third of the total number of members, convene a special meeting to be held, within thirty days after the date of receipt of the request, on such a date and at such a place as he or she may determine.

(b) The request must clearly state the purpose of the meeting.

[Subs. (2) substituted by s. 8 of Act 29/2007]

## 9. Quorum and procedure at meetings

(1) The majority of the members of the council shall constitute a quorum at any meeting of the council.

[Subs. (1) substituted by s. 7 of Act 18/95]

(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. Executive committee

(1)

(a) The council may establish such committees as it may deem necessary, each consisting of so many persons, appointed by the council, as the council may determine but including, except in the case of an appeal committee referred to in subsection (2), at least one member of the council, who shall be the chairperson of such committee.

[Para. (a) substituted by s. 9 of Act 29 of 2007]

(b) The council may, subject to the provisions of subsection (3), delegate to any committee so established or to any person some of its powers as it may from time to time determine, but shall not be divested of any power so delegated.

[\(Section 10\(2\): Decided cases\)](#)

(2) The council shall establish *ad hoc* appeal committees, each consisting of, as chairperson, a person with knowledge of the law with at least 10 years' relevant experience, not more than two registered persons drawn from the profession of the



registered person in respect of whose conduct a professional conduct committee of a professional board had held an inquiry, and a member of the council appointed to represent the community.

[Subs. (2) substituted by s. 9 of Act 29/2007]

[\(Section 10\(3\): Decided cases\)](#)

(3) An appeal committee referred to in subsection (2) shall have the power to vary, confirm or set aside a finding of a professional conduct committee established in terms of [section 15](#)(5)(f) or to refer the matter back to the professional conduct committee with such instructions as it may deem fit.

[Subs. (3) substituted by s. 9 of Act 29/2007]

(4) A decision of a professional conduct committee shall be of force and effect from the date determined by the professional conduct committee.

[Subs. (4) substituted by s. 9 of Act 29/2007]

(5) Where a matter has been considered by an appeal committee, the decision of the appeal committee shall be of force and effect from the date determined by that appeal committee.

[Subs. (5) substituted by s. 9 of Act 29/2007]

(6) The council may, after consultation with one or more professional boards, establish a joint standing committee of the council and the board or boards.

[S. 10 amended by s. 3 of Act 58/84, s. 5 of Act 58/92 and s. 8 of Act 18/95 and substituted by s. 8 of Act No. 9 of 1997]

**11. ....**

[S. 11 amended by s. 3 of Act 52/78, s. 4 of Act 58/84, s. 2 of Act 79/90 and s. 6 of Act 58/92 and repealed by s. 9 of Act 89/97]

**12. Appointment of registrar and staff**

(1) The Minister must, after consultation with the council, appoint a registrar and the council may delegate to the registrar the power to appoint such other persons as the registrar may deem necessary for carrying out the functions specified under this Act, and the council may also delegate to the registrar the power to dismiss such other persons.

[Subs. (1) substituted by s. 9 of Act 18/95 and s. 10 of Act 29/2007]

(2) The registrar is the accounting officer and secretary of the council and of each professional board and he or she shall perform the functions and carry out the duties assigned to or imposed upon him or her in terms of this Act as well as such functions and duties as may from time to time be assigned to or imposed upon him or her by the council or a professional board or a committee established in terms of [section 10](#).

[Subs. (2) substituted by s. 10 of Act 89/97 and s. 10 of Act 29/2007]

(2A) The registrar may in writing authorise any member of his or her staff to exercise or perform any power, duty or function conferred or imposed on him or her by or in terms of this Act.

[Subs. (2A) inserted by s. 10 of Act 89/97]

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

(4) .....

[Subs. (4) deleted by s. 9 of Act 18/95]

### **13. Corporate finance and governance**

[Heading substituted by s. 11 of Act 29/2007]

(1) All registration , examination , annual and other fees payable under this Act shall be paid to the council, unless otherwise provided, and shall constitute the funds of the council and the council shall utilise the funds for defraying expenses incurred in connection with the performance of its functions and the functions of professional boards.

[Subs. (1) substituted by s. 4 of Act 52/78, amended by s. 3 of Act 79/90 and substituted by s. 11 of Act 89/97 and s. 11 of Act 29/2007]

(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.

(3) The registrar must-

(a) keep full and proper records of all money received and expenses incurred by, and of all assets, liabilities and financial transactions of, the council and the registrar;

(b) as soon as is practicable, but not later than four months after the end of each financial year, prepare annual financial statements in respect of the financial year in question;

(c) ensure that the council has and maintains-

(i) effective, efficient and transparent systems of financial and risk management and internal control;

(ii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective; and

(iii) a system for properly evaluating all projects involving expenditure of capital prior to a final decision on the project;

- (d) ensure the effective, efficient, economical and transparent use of the resources of the council;
- (e) take effective and appropriate steps to-
  - (i) collect all money due to the council;
  - (ii) prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; and
  - (iii) manage available working capital efficiently and economically;
- (f) take into account all relevant financial considerations, including issues of propriety, regularity and value for money, when policy proposals affecting the registrar's responsibilities are considered and, when necessary, bring those considerations to the attention of the council;
- (g) be responsible for the management, including the safeguarding and maintenance, of the assets and for the management of the liabilities of the council;
- (h) settle all contractual obligations and pay all money owing by the council within 30 days of due date or within a period agreed by the relevant creditor and the council;
- (i) ensure that expenditure of the council is in accordance with the decisions of the council and that effective and appropriate steps are taken to prevent unauthorised expenditure;
- (j) keep full and proper records of the financial affairs of the council in accordance with any prescribed norms and standards;
- (k) prepare financial statements for each financial year in accordance with recognised accounting practice;
- (l) submit the financial statements within two months after the end of a financial year to an independent auditor for auditing; and
- (m) submit within six months after the end of a financial year to the council for approval, and thereafter to the Minister within one month of such approval-
  - (i) an annual report on the activities of the council during that financial year;
  - (ii) the financial statements for that financial year after those statements have been audited; and

(iii) an independent auditor's report on those statements.

[Subs. (3) added by s.11 of Act 29/2007]

(4) The council must ensure that the requirements of subsection (3) are met and properly fulfilled.

[Subs. (4) added by s.11 of Act 29/2007]

(5) If an accounting officer is unable to comply with any of the responsibilities determined in subsection (3), he or she must promptly report the inability, together with reasons, to the Minister and the council.

[Subs. (5) added by s.11 of Act 29/2007]

(6) Any person who obstructs the registrar or the council in fulfilling the requirements of subsections (3) and (4) is guilty of an offence and is liable on conviction to a fine or imprisonment for a period not exceeding two years or to both a fine and such imprisonment.

[Subs. (6) added by s.11 of Act 29/2007]

**13A.**

.....

[S. 13A inserted by s. 5 of Act 52/78 and repealed by s. 4 of Act 79/90]

#### **14. Minister may rectify defects**

If anything required to be done under this Act in connection with the appointment 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.

[S. 14 substituted by s. 10 of Act 18/95]

#### **[\(Section 15: Decided cases\)](#)**

#### **15. Establishment of professional boards**

(1) The Minister shall, on the recommendation of the council, establish a professional board with regard to any health profession in respect of which a register is kept in terms of this Act, or with regard to two or more such health professions.

[Subs. (1) substituted by s. 12 of Act 29/2007]

(2) The Minister may, on the recommendation of the council, reconstitute the professional boards with regard to the health professions for which the boards have been established, and establish other boards.

[Subs. (2) substituted by s. 12 of Act 29/2007]

(3) Before making a recommendation as contemplated in subsection (2), the council shall consult with any body which is or persons who are in the opinion of the council

representative of the majority of persons to be affected by such change or establishment.

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

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

(a) the appointment of the members of a professional board by the Minister on the basis of nominations made by the members of the health profession or professions involved;

[Para. (a) substituted by s. 12 of Act 29/2007]

(b) persons representing the community to comprise not less than 20 per cent of the membership of a professional board, with a minimum of one such representative for every professional board and such representatives must not be persons registered with that board;

[Para. (b) substituted by s. 12 of Act 29/2007]

(c) relevant educational institutions to be represented;

(d) the health authorities to be represented;

(e) one or more persons versed in law to be appointed, where appropriate;

(f) the establishment by a professional board of such committees as it may deem necessary, each consisting of so many persons appointed by the board as the board may determine, but including at least one member of the board who shall be the chairperson of such committee, and the delegation to any person or any committee so established, such of its powers as it may from time to time determine, but shall not be divested of any power so delegated;

(fA) the establishment of professional conduct committees, each consisting of so many persons as may be prescribed, but including at least three board members or members of the relevant profession and at least two public representatives one of whom shall be the chairperson of such committee;

[Para. (fA) inserted by s. 12 of Act 29/2007]

(g) the procedure to be followed for the nomination and appointment, as the case may be, of the members of a professional board;

[Para. (g) substituted by s. 12 of Act 29/2007]

(h) the election of a chairperson and vice-chairperson by the members of a professional board and the powers and functions of such a chairperson and vice-chairperson;

[Para. (h) substituted by s. 12 of Act 29/2007]

(i) the term of office of the members of a professional board; and

[Para. (i) substituted by s. 12 of Act 29/2007]

(j) the vacation of office by a member of and the filling of vacancies in a professional board.

[Para. (j) added by s. 12 of Act 29/2007]

[S. 15 amended by s. 46 of Act 57/75 and s. 11 of Act 18/95 and substituted by s. 12 of Act 89/97]

## 15A. Objects of professional boards

The objects of a professional board are -

- (a) to consult and liaise with other professional boards and relevant authorities on matters affecting the professional board;
- (b) to assist in the promotion of the health of the population of the Republic on a national basis;

(c) subject to legislation regulating health care providers and consistency with national policy determined by the Minister, to control and to exercise authority in respect of all matters affecting the education and training of persons in, and the manner of the exercise of the practices pursued in connection with, any health profession falling within the ambit of the professional board;

[Para. (c) substituted by s. 13 of Act 29/2007]

(d) to promote liaison in the field of the education and training contemplated in paragraph (c), both in the Republic and elsewhere, and to promote the standards of such education and training in the Republic;

[Para. (d) substituted by s. 13 of Act 29/2007]

(e) to make recommendations to the council to advise the Minister on any matter falling within the scope of this Act as it relates to any health profession falling within the ambit of the professional board in order to support the universal norms and values of such profession or professions, with greater emphasis on professional practice, democracy, transparency, equity, accessibility and community involvement;

[Para. (e) substituted by s. 13 of Act 29/2007]

(f) to make recommendations to the council and the Minister on matters of public importance acquired by the professional board in the course of the performance of its functions under this Act;

[Para. (f) substituted by s. 13 of Act 29/2007]

(g) to maintain and enhance the dignity of the relevant health profession and the integrity of the persons practising such profession; and;

[Para. (g) substituted by s. 13 of Act 29/2007]

(h) to guide the relevant health profession or professions and to protect the public

[Para. (h) substituted by s. 13 of Act 29/2007]

[S. 15A inserted by s. 13 of Act 89/97]

## 15B. General powers of professional boards

(1) A professional board may -

- (a) in such circumstances as may be prescribed, or where otherwise authorised by this Act, remove any name from a register or, upon payment of the prescribed fee, restore thereto, or suspend a registered person from practising his or her profession pending the institution of a formal inquiry in terms of [section 41](#);
- (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) subject to prescribed conditions, approve training schools;
- (d) consider any matter affecting any profession falling within the ambit of the professional board and make representations or take such action in connection therewith as the professional board deems advisable;
- (e) upon application by any person, recognise any qualification held by him or her (whether such qualification has been obtained in the Republic or elsewhere) as being equal, either wholly or in part, to any prescribed qualification, whereupon such person shall, to the extent to which the qualification has so been recognised, be deemed to hold such prescribed qualification;
- (f) after consultation with another professional board or boards, establish a joint standing committee or committees of the boards concerned; and
- (g) perform such other functions as may be prescribed, and generally, do all such things as the professional board deems necessary or expedient to achieve the objects of this Act in relation to a profession falling within the ambit of the professional board.

(2) Any decision of a professional board relating to a matter falling entirely within its ambit shall not be subject to ratification by the council, and the council shall, for this purpose, determine whether a matter falls entirely within the ambit of a professional board.

[S. 15B inserted by s. 13 of Act 89/97]

## CHAPTER II

### EDUCATION, TRAINING AND REGISTRATION

[Heading substituted by s. 15 of Act 29/2007]

#### 16. Control over training

- (1) Notwithstanding anything to the contrary in any other law contained but subject to the provisions of the Nursing Act, 1978 (Act No. 50 of 1978), no person or educational institution, excluding a university or a technikon, 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 professional board concerned.

[Subs. (1) substituted by s. 7 of Act No. 8 of 1992 and amended by s. 14 of Act 89/97]

- (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 professional board concerned in writing for its approval of such training and shall furnish such particulars regarding such training as the professional board concerned may require.

[Subs. (2) amended by s. 4 of Act 89/97]

- (3) The professional board concerned 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.

[Subs. (3) amended by s. 14 of Act 89/97]

- (4) .....

[Subs. (4) deleted by s. 53 of Act 88/96]

- (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 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subs. (5) amended by s. 14 of Act 89/97]

#### 17. Registration a prerequisite for practising

- (1) No person shall be entitled to practise within the Republic -

- (a) any health profession registrable in terms of this Act; or



(b) except in so far as it is authorised by legislation regulating health care providers and sections 33, 34 and 39 of this Act, any health 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 humankind;

(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 or she is registered in terms of this Act.

[Subs. (1) amended by s. 2 of Act 33/76, s. 8 of Act 58/92 and s. 15 of Act 89/97 and substituted by s.17 of Act 29/2007]

(1A) The provisions of subsection (1)(b) must not be construed as permitting the performance by a person registered under any of the laws contemplated in that subsection of any act which is not performed in the ordinary course of the practising of his or her profession.

[Subs. (1A) inserted by s.17 of Act 29/2007]

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

[Subs. (2) substituted by s. 15 of Act 89/97 and s. 17 of Act 29/2007]

(3) If the registrar is satisfied that the qualifications and the other documents submitted in support of the application satisfy the requirements of this Act, he or she shall, upon payment by the applicant of the prescribed registration fee, issue a registration certificate authorising the applicant, subject to the provisions of this Act or of any other law, to practise the health profession in respect whereof he or she has applied for registration, within the Republic.

[Subs. (3) substituted by s. 47 of Act 57/75 and s. 17 of Act 29/2007]

(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 or she shall refuse to issue a registration certificate to the applicant, but shall, if so required by the applicant, submit the application to the professional board concerned for decision.

[Subs. (4) substituted by s. 15 of Act 89/97]

- (5) Any person who is not registered in terms of this Act and practises a health profession in contravention of this section or who pretends to hold such registration is guilty of an offence and on conviction is liable to a fine or to imprisonment for a period not exceeding 12 months or to both a fine and such imprisonment.

[Subs. (5) added by s. 17 of Act 29/2007]

## 18. Keeping of registers

### (Section 18(1): Decided cases)

- (1) The registrar shall keep registers in respect of persons registered in terms of this Act, and must enter in the appropriate register the name, relevant contact details, qualifications, date of initial registration and such other particulars (including the registration category in which they hold registration and the name of their speciality, subspeciality, professional category or categories, if any) as the relevant professional board may determine, of every person whose application for registration in terms of [section 17\(2\)](#) has been granted.

[Subs. (1) substituted by s. 48 of Act 57/75, s. 3 of Act 33/76, s. 13 of Act 36/77, s. 9 of Act 58/92, s. 16 of Act 89/97 and s. 18 of Act 29/2007]

### (Section 18(2): Decided cases)

- (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 names have to be removed in terms of this Act and shall from time to time make the necessary alterations to the entries contemplated in subsection (1) in respect of registered persons.

[Subs. (2) substituted by s. 16 of Act 89/97 and s.18 of Act 29/2007]

- (3) Every registered person who changes his or her contact details shall in writing notify the registrar thereof within thirty days after such change.

[Subs. (3) substituted by s. 18 of Act 29/2007]

- (4) .....

[Subs. (4) substituted by s. 9 of Act 58/92 and deleted by s. 16 of Act 89/97]

### (Section 18(5): Decided cases)

- (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 professional board is not so satisfied, and any entry which is proven to the satisfaction of the professional board to have been in error or through misrepresentation or in circumstances not authorised 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.

[Subs. (5) amended by s. 16 of Act 89/97 and substituted by s. 18 of Act 29/2007]

[\(Section 19: Decided cases\)](#)

**19. Removal of name from, and restoration to, register**

[\(Section 19\(1\): Decided cases\)](#)

(1) The professional board or a committee to whom the function has been delegated may direct the registrar to, or the registrar acting on the established policies of the professional board may, remove from the register the name of any person-

[Words preceding para.. (a) substituted by s. 17 of Act 89/97 and s. 19 of Act 29/2007]

(a) .....

[Para. (a) deleted by s. 19 of Act 29/2007]

(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 certified mail to the address appearing in the register in respect of such person, of his or her present address;

[Para. (b) substituted by s. 17 of Act 89/97]

(c) who has requested that his or her 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 no unprofessional conduct proceedings are pending against him or her, or criminal proceedings are being or are likely to be taken against him or her;

[Para. (c) substituted by s. 19 of Act 29/2007]

(d) who has failed to pay to the professional board, within three months as from the date on which it became due for payment, any annual fee prescribed by the professional board in terms of [section 62](#);

[Para. (d) substituted by s. 17 of Act 89/97]

(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 or she was registered;

[Para. (e) substituted by s. 19 of Act 29/2007]

[\(Section 19\(1\)\(f\): Decided cases\)](#)

(f) who has been registered in error or through fraud;or

[Para. (f) added by s. 10 of Act 58/92 and substituted by s. 19 of Act 29/2007]

(g) who has been found guilty of unprofessional conduct and on whom a penalty specified in [section 42\(1\)\(c\)](#) is imposed.

[Para. (g) added by s. 19 of Act 29/2007]

(2) Notice of the removal, in terms of subsection (1), of his or her 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 certified mail addressed to such person at the address appearing in respect of him or her in the register.

[Subs. (2) substituted by s. 17 of Act 89/97]

(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 health profession in respect of which he or she was registered or to perform any act which he or she, in his or her capacity as a registered person, was entitled to perform,

[Para. (b) substituted by s. 19 of Act 29/2007]

until such time as his or her 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 it appears to the judge concerned from the documents submitted to him or her in terms of the Mental Health Care Act, 2002 (Act No. 17 of 2002), or it is brought to his or her notice in any other manner, that the person to whom the documents relate is a person registered under this Act, he or she shall, if the said person is declared a mentally ill person as contemplated by the said Mental Health Care Act, direct that a copy of the order declaring such a 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.

[Subs. (4) substituted by s. 19 of Act 29/2007]

(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 or her name has been removed from the register in terms of subsection (4), submitting proof to the satisfaction of the relevant professional board of his or her discharge in terms of the provisions of the Mental Health Care Act, from the institution at which he or she had been detained, but subject to any conditions of registration or practice which may be imposed on him or her in terms of [section 51](#); and

[Para. (c) substituted by s. 19 of Act 29/2007]

(cA) .....

[Para. (cA) inserted by s. 17 of Act 89/97 and deleted by s. 19 of Act 29/2007]

(d) complying with such other requirements as the relevant professional board may determine.

[Para. (d) substituted by s. 19 of Act 29/2007]

(6) .....

[Subs. (6) deleted by s. 17 of Act 89/97]

### **19A. Suspension of health professionals and revocation of such suspension**

(1) A relevant professional board or a committee of a professional board to whom the function has been delegated may authorise the registrar to suspend the registration of any person-

(a) who has failed to notify the registrar of his or her present address, within a period of three months from the date of an inquiry sent by the registrar by certified mail, which is returned unclaimed, to the address appearing in the register in respect of such person;

(b) who has failed to pay his or her prescribed annual fee on a date when it became due in terms of [section 61 A](#);

(c) who has been found guilty of unprofessional conduct and on whom a penalty referred to in [section 42\(1\)\(b\)](#) of the Act is imposed;

(d) who has failed to comply with the requirements in respect of continuing professional development as prescribed under [section 26](#); or

(e) who on the basis of a complaint lodged with the council or information available at the disposal of council is posing an imminent threat or danger to the public in terms of his or her professional practice.

(2) The registrar must issue the notice of suspension and forward it to the person contemplated in subsection (1) by way of certified mail, fax or electronic transmission to the address appearing in respect of him or her in the register.

(3) As from the date of issue of the notice referred to in subsection (2) and its receipt by the person concerned-

(a) any registration certificate issued in terms of this Act to the person concerned must be deemed to be suspended; and

(b) such person must immediately cease to practise the health profession in respect of which he or she is registered or to perform any act which he or she in his or her capacity as a registered person is entitled to perform, until such time as the suspension of his or her registration is lifted.

- (4) The suspension of any person in terms of subsection (1) must be revoked by the registrar upon-
- (a) the payment of any annual fee which was not paid and payment of a restoration fee and other penalties as may be prescribed;
  - (b) the expiry of the suspension period;
  - (c) such person complying with requirements in respect of continuing professional development as prescribed under [section 26](#); and
  - (d) such person complying with such other requirements as the relevant professional board may determine.

[S. 19A inserted by s. 20 of Act 29/2007]

[\(Section 20: Decided cases\)](#)

**20. Right to appeal**

- (1) Any person who is aggrieved by any decision of the council, a professional board or a disciplinary appeal committee, may appeal to the appropriate High Court against such decision.

[\(Section 20\(2\): Decided cases\)](#)

- (2) Notice of appeal must be given within one month from the date on which such decision was given.

[S. 20 repealed by s. 4 of Act 33/76 and inserted by s. 18 of Act 89/97]

**21. Custody and publication of registers**

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 or to be made available in electronic or any other appropriate format approved by the council.

[S.21 substituted by s. 21 of Act 29/2007]

**22. Register as proof**

- (1) 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 fact therein recorded, and the absence of the name of any person from such copy shall be proof, until the contrary is proven, that such person is not registered according to the provisions of this Act: Provided that in the case of any person whose name-

[Words preceding para. (a) substituted by s. 22 of Act 29/2007]

- (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.
- (2) A certificate of registration shall be evidence of registration for a period of one year only and thereafter an annual practising certificate, which shall be issued upon payment of the required annual fee and the submission of such information as may be required by the council to enable it to keep accurate statistics on human resources in the health field, shall be regarded as proof of registration.

[Subs. (2) added by s. 19 of Act 89/97]

**23. Issue of duplicate registration certificate, certificate of status, extract from register or certificate by registrar**

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

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

- (2) The registrar may, upon payment of a fee, issue to any registered person, after submission of an affidavit that no criminal or unprofessional conduct proceedings are pending against him or her, a certificate of status containing particulars relating to -
- (a) such person's registration under this Act;
  - (b) whether or not the person is disqualified in part or totally from practising his or her profession;
  - (c) whether or not any steps pertaining to unprofessional conduct are pending against the person concerned at the time of the issuing of the certificate;

(d) whether or not the person concerned was, in the past, found guilty of any unprofessional conduct, and if so-

(i) the date of such finding;

(ii) the nature of such unprofessional conduct; and

(iii) the penalty imposed; and

(e) whether or not the person concerned has been found to be impaired and, if so-

(i) the date of such finding; and

(ii) the nature of the conditions of registration and practice that may be in place at the time of the issuing of the certificate.

[Subs. (2) substituted by s.23 of Act 29/2007]

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

(4) A certificate may be issued subject to certain conditions imposed by the professional board concerned and such conditions shall be indicated on the certificate.

[Subs. (4) added by s. 20 of Act 89/97]

## **24. Qualifications prescribed for registration**

The Minister may, on the recommendation of the council, prescribe the qualifications obtained by virtue of examinations conducted by an accredited university, or other educational institution or examining authority in the Republic, which, when held singly or conjointly with any other qualification, shall entitle any holder thereof to registration in a registration category in terms of this Act if he or she has, before or in connection with or after the acquisition of the qualification in question, complied with such conditions or requirements as may be prescribed.

[S. 24 amended by s. 1 of Act 43/80 and s. 2 of Act 38/82 and substituted by s. 21 of Act 89/97 and s.24 of Act 29/2007]

## **24A. Community service**

(1) Notwithstanding [section 24](#), any person registering for the first time in a category of registration listed in the regulations made in terms of this Act shall perform remunerated community service in health care for a period of one year in terms of the regulations contemplated in subsection (2) and shall, on the completion of such service, be entitled to practise the profession.



- (2) The Minister may, after consultation with the council, make regulations concerning the performance of the service contemplated in subsection (1), including but not limited to-
- (a) the place or places at which it is to be performed;
  - (b) the conditions of employment pertaining to persons who perform such service; and
  - (c) the registration categories excluded from such service.

[S. 24A inserted by s. 22 of Act 89/97 and substituted by s. 25 of Act 29/2007]

## **25. Registration of persons who hold qualifications not prescribed for registration**

- (1) The Minister may, after consultation with the council by regulation provide that any person who holds a qualification which the council may accept by virtue of the fact that such qualification, in the opinion of the council, indicates a satisfactory standard of professional education and training, may be registered in terms of this section in the applicable prescribed registration category, and thereupon the relevant professional board may in its discretion, but subject to any regulations and national health policy and international protocols which the Minister may make or be subject to, register such person.
- (2) A professional board may require a person who holds a qualification referred to in subsection (1) and who applies for registration in terms of this section, to pass to the satisfaction of the professional board, on a date and at a place determined by the professional board, an evaluation contemplated in subsection (3) before persons appointed by the professional board, for the purpose of determining whether such person possesses adequate professional knowledge, skill and competence and whether he or she is proficient in any of the official languages of the Republic.
- (3) The council may from time to time determine-
- (a) the nature of the evaluation which shall be conducted the purpose of subsection (2), the requirements for admission and any other matter relating to such evaluation, including the number of attempts; and
  - (b) the fees which shall be paid by persons who present themselves for such evaluation by persons who present themselves for such evaluation.
- (3A)
- (a) Despite [section 24A](#), no person with a foreign qualification may be registered in the category independent practice unless he or she is a South African citizen or has attained permanent residence status in terms of the Immigration Act 2002, (Act No. 13 of 2002).

(b) The Council may exempt any person who has applied for exemption and is in the Republic for a temporary and particular purpose.

(4) The Minister may, in consultation with the council and the relevant professional board, make regulations concerning the imposition of restrictions on any person registered in terms of subsection (1), subject to which he or she shall be entitled to practise the profession in question, and the lifting of such restrictions.

[S. 25 substituted by s. 23 of Act 89 of 1997 and s. 26 of Act 29/2007]

[\(Section 26: Decided cases\)](#)

**26. Compliance with certain conditions relating to continuing professional development as prerequisite for continued registration**

The council may, after consultation with a professional board, make rules which-

(a) determine conditions relating to continuing professional development to be undertaken by persons registered in terms of this Act in order to retain such registration;

(b) determine the nature and extent of continuing professional development to be undertaken by persons registered in terms of this Act;

(c) relate to the criteria for recognition by the professional board of continuing professional development activities and of providers offering such activities; and

(d) relate to offences in respect of, and penalties for, non-compliance with this section.

[S. 26 amended by s. 6 of Act 52/78 and s. 5 of Act 79/90 and substituted by s. 24 of Act 89/97 and s. 27 of Act 29/2007]

27. ....

[S. 27 repealed by s. 25 of Act 89/97]

28. ....

[S. 28 amended by s. 7 of Act 52/78, substituted by s. 6 of Act 79/90 and repealed by s. 25 of Act 89/97]

**29. Registration of certain persons for education and training purposes**

(1) For the purpose of promoting education or training for the practising of a health profession in respect of which registration in terms of this Act is a requirement, the relevant professional board may, notwithstanding the provisions of this Act, register any person not permanently resident within the Republic to teach and train in and practise such profession for such period as the professional board may determine.

- (2) Any person registered in terms of subsection (1) may provide education and training at institutions approved for that purpose by the professional board in respect of such health profession as part of such education and training.

[S. 29 substituted by s. 2 of Act 43/80, s. 26 of Act 89/97 and s. 28 of Act 29/2008]

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

- (1) Any person not permanently resident within the Republic and having such education, training and experience as the relevant professional board may, for the purposes of this section, deem satisfactory, may, notwithstanding the provisions of this Act, be registered by the professional board for the purposes of subsection (2) for such period, not exceeding two years, as the professional board may determine.

- (2) Any person registered in terms of subsection (1) shall only be entitled to engage in post-graduate or post-diploma studies at such university or other educational institution in the Republic as the professional board may determine.

[S. 30 substituted by s. 27 of Act 89/97 and s. 29 of Act 29/2008]

**31. Universities, technikons and other training institutions to furnish council with certain particulars**

- (1) Every university, technikon or educational institution at which a qualification can be obtained which entitles any holder thereof to registration under this Act, shall furnish the council on its request with full particulars as to -
- (a) the minimum age and standard of general education required of students;
  - (b) the course of study, training and examinations required of a student before such qualification is granted;
  - (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.

[Subs. (1) amended by s. 28 of Act 89/97]

- (2) If any university, technikon or educational institution 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, technikon or educational institution and that such improper compliance is having or may have an adverse effect on the standards of education maintained at that university, technikon or educational institution, the Minister may, on the recommendation of the council, by notice in the *Gazette* declare that any specified qualification granted by such university, technikon

or educational institution after a date specified in the notice shall not entitle any holder thereof to registration under this Act.

[Subs. (2) amended by s. 46 and s. 47 of Act 97/86 and substituted by s. 28 of Act 89/97]

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

[Subs. (3) amended by s. 46 and s. 47 of Act 97/86 and substituted by s. 28 of Act 89/97]

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

[Subs. (4) amended by s. 47 of Act 97/86, substituted by s. 28 of Act 89/97 and amended by s. 57 of Act 29/2007]

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

[Subs. (5) substituted by s. 28 of Act 89/97]

[S. 31 amended by s. 28 of Act 89/97]

**32.** .....

[S. 32 substituted by s. 5 of Act 33/76, amended by s. 14 of Act 36/77 and s. 11 of Act 58/92 and repealed by s. 29 of Act 89/97]

**32A.** .....

[S. 32A inserted by s. 15 of Act 36/77 and repealed by s. 29 of Act 89/97]

**32B.** .....

[S. 32B inserted by s. 15 of Act 36/77 and repealed by s. 29 of Act 89/97]

**(Section 33: Decided cases)**

**33. Definition of scope of other health professions registrable in terms of this Act and registration of certain persons**

- (1) The Minister may, on the recommendation of the council and the relevant professional board, by regulation define the scope of any health profession registrable in terms of this Act by specifying the acts which shall for the purposes of the application of this Act be deemed to be acts pertaining to that profession: Provided that such regulations shall not be made unless any 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.

[Subs. (1) substituted by s. 30 of Act 89/97 and s. 31 of Act 29/2007]

(2) When a professional board has been established under [section 15](#) in respect of any health profession, the professional board shall, subject to such restrictions in respect of his or her professional activities as it may determine, register in respect of such profession, the name of any person who -

[Words preceding para. (a) substituted by s. 3 of Act 43/80, s. 30 of Act 89/97 and s. 31 of Act 29/2007]

(a)

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

[Subpara. (i) substituted by s. 3 of Act 43/80]

(ii) is dependent, wholly or mainly, for his or her livelihood on the practice of such profession; and

(iii) submits a certificate to the professional board stating that he or she is of good character; and

[Subpara. (iii) substituted by s. 31 of Act 29/2007]

(b) .....

[Para. (b) deleted by s. 3 of Act 43/80]

(c) submits to the professional board an application in the prescribed form containing proof to the satisfaction of the professional board of the facts referred to in subparagraphs (i) and (ii) of paragraph (a), within six months (or such longer period as the professional board may allow) after the date on which the scope of such profession was defined by the Minister in regulations contemplated in subsection (1).

[Para. (c) substituted by s. 30 of Act 89/97 and s. 31 of Act 29/2007]

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

[Subs. (3) added by s. 3 of Act 43/80 and substituted by s. 30 of Act 89/97]

(4) Any person registered under subsection (2) in respect of any other health profession shall only be entitled to practise that profession subject to -

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

[Subs. (4) added by s. 3 of Act 43/80 and substituted by s. 30 of Act 89/97]

- (5) The professional board may allow a person referred to in subsection (2) to sit for an examination and if such person passes such examination to the satisfaction of the professional board, it shall exempt him or her from all restrictions imposed in respect of him or her under subsection (2).

[Subs. (5) added by s. 3 of Act 43/80 and substituted by s. 30 of Act 89/97]

**34. Registration a prerequisite for practising a profession in respect of which a professional board has been established**

[Heading substituted by s. 32 of Act 29/2007]

- (1) Subject to the provisions of [sections 33](#)(2)(c) and [39](#), no person shall practise within the Republic any health profession the scope of which has been defined by the Minister in terms of [section 33](#) (1), unless he or she is registered in terms of this Act in respect of such profession.

[Subs. (1) substituted by s. 31 of Act 89/97 and s. 32 of Act 29/2007]

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

[S. 34 substituted by s. 4 of Act 43/80]

**35. Registration and use of additional qualifications, registration of specialists, persons in subspecialties, professional categories and additional professional categories**

[Heading substituted by s. 33 of Act 29/2007]

- (1) A person who desires to have a qualification registered, other than the qualification by virtue of which he or she has in the first instance been registered, or to be registered as a specialist or in a subspecialty, professional category or additional professional category recognised by a professional board shall, upon payment of a prescribed fee and subject to the provisions of subsection (2), be entitled to be registered as a specialist or in a professional category or additional professional category or to have such additional qualification entered in the register.

[Subs. (1) substituted by s. 33 of Act 29/2007]

- (1A) Where a person fails in respect of any provision of a regulation made under [section 61](#) (1)(f) and applies to be registered as a specialist or in a professional category or an additional professional category in terms of this section, the relevant professional board may require him or her to pass to the satisfaction of the professional board, on a date and at a place determined by the professional board, an examination prescribed under subsection (1B) before examiners appointed by the professional

board, for the purpose of determining whether his or her professional knowledge, skills and competence in the discipline of his or her speciality or field of his or her professional category is sufficiently adequate to enable him or her to practise as a specialist or to be registered in that professional category or additional professional category.

[Subs. (1A) inserted by s. 8 of Act 52/78 and substituted by s. 32 of Act 89/97 and s. 33 of Act 29/2007]

(1B) The Minister may on the recommendation of the council, and in consultation with the relevant professional board, from time to time make regulations which prescribe the examination which shall be conducted for the purposes of subsection (1A), and the fees which shall be paid by persons who sit for such examination.

[Subs. (1B) inserted by s. 8 of Act 52/78 and substituted by s. 33 of Act 29/2007]

(2) Only such additional and specialist qualifications, specialities and subspecialities, professional categories or additional professional categories as may be prescribed, shall be registrable under this section.

[Subs. (2) substituted by s. 33 of Act 29/2007]

(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 or she holds any professional qualification which is not shown in the register as registered against his or her name, nor shall any registered person practise as a specialist or hold himself or herself out to be a specialist unless his or her speciality has been registered as prescribed.

[Subs. (3) substituted by s. 33 of Act 29/2007]

(4)

(a) The relevant professional board 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 relevant professional board 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 the registration of specialities, and shall so remove any speciality on the written application of the person concerned.

(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 relevant professional board may determine.
- [Subs. (4) substituted by s. 33 of Act 29/2007]

### CHAPTER III

#### OFFENCES BY UNREGISTERED PERSONS

**36.** .....

[S. 36 amended by s. 16 of Act 36/77, s. 12 of Act 58/92 and s. 33 of Act 89/97 and repealed by s. 34 of Act 29/2007]

**37.** .....

[S. 37 amended by s. 6 of Act 33/76, s. 13 of Act 58/92 and s. 34 of Act 89/97 and repealed by s. 35 of Act 29/2007]

**38.** .....

[S. 38 amended by s. 14 of Act 58/92 and s. 35 of Act 89/97 and repealed by s. 36 of Act 29/2007]

[\(Section 39: Decided cases\)](#)

**39. Prohibition of performance of certain acts by unregistered persons deemed to pertain to health professions registrable in terms of this Act**

[Heading substituted by s. 37 of Act 29/2007]

[\(Section 39\(1\): Decided cases\)](#)

(1) No person shall perform any act deemed to be an act pertaining to any health profession as may be prescribed under this Act unless he or she-

[Words preceding para. (a) substituted by s. 36 of Act 89/97 and s. 37 of Act 29/2007]

(a) is registered in terms of this Act in respect of such profession;  
[Para. (a) substituted by s. 36 of Act 89/97]

(b)

(i) is registered in terms of this Act in respect of any other profession referred to in [section 33](#) to which such act is also deemed to pertain; or

(ii) practises a health profession in respect of which the registrar in terms of this Act keeps a register and such act is deemed to be an act which also pertains to such profession;

[Para. (b) amended by s. 36 of Act 89/97 and substituted by s. 37 of Act 29/2007]

(c) .....

[Para. (c) deleted by s. 37 of Act 29/2007]



(d) .....

[Para. (d) deleted by s. 37 of Act 29/2007]

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

(2) A person who contravenes subsection (1) shall be guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 12 months, or to both a fine and such imprisonment.

[Subs. (2) substituted by s. 37 of Act 29/2007]

[S. 39 substituted by s. 5 of Act 43/80]

#### **40. Penalty for professing to be a registered person or holder of certain qualifications**

Any person who is not registered in respect of any health profession, but-

(a) pretends to be so registered in respect of such profession; or

(b) uses any name, title, description or symbol indicating, or calculated to lead persons to infer that he or she is the holder of any qualification which by rule under this Act is recognized by the relevant professional board as acceptable for registration in respect of such profession, but of which qualification he or she is not the holder; or

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

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

[S. 40 amended by s. 7 of Act 33/76, s. 6 of Act 43/80 and s. 37 of Act 89/97 and substituted by s. 38 of Act 29/2007]

### **CHAPTER IV**

#### **DISCIPLINARY POWERS OF PROFESSIONAL BOARDS**

[Heading substituted by s. 38 of Act 89/97]

[\(Section 41: Decided cases\)](#)

#### **41. Inquiries by professional boards into charges of unprofessional conduct**

[Heading substituted by s. 39 of Act 29/2007]

[\(Section 41\(1\): Decided cases\)](#)

(1) A professional board shall have power to institute an inquiry into any complaint, charge or allegation of unprofessional 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\(1\)](#).

[Proviso deleted by s. 39 of Act 29/2007]

- (2) A professional board 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.

[S. 41 substituted by s. 39 of Act 89/97]

#### **41A. Manner in which certain investigations may be instituted**

(Section 41A(1): Decided cases)

- (1) The registrar may, where necessary in order to establish more facts, appoint an officer of the professional board as an investigating officer for the purposes of this section.

[Subs. (1) substituted by s. 40 of Act 89/97 and s. 40 of Act 29/2007]

(Section 41A(2): Decided cases)

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

[Subs. (2) substituted by s. 40 of Act 89/97 and s. 40 of Act 29/2007]

- (3) A person appointed in terms of subsection (2) shall, for the purpose of the investigation in question, have the same powers and duties as the investigating officer contemplated in subsection (1).
- (4) The registrar shall issue to every person appointed under subsection (1) or (2) a certificate to the effect that he or she has so been appointed, and, in the case of a person appointed for, or to assist with, a particular investigation, that he or she has been appointed for such investigation, and in the exercise of his or her powers and the carrying out of his or her duties that person shall on demand produce such certificate.

(Section 41A(5): Decided cases)

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

(Section 41A(5)(a): Decided cases)

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

- (b) in order to determine if any provision of this Act applies to or has been contravened by a registered person; and

(Section 41A(5)(c): Decided cases)

(c) into a charge, complaint or allegation of unprofessional conduct by a registered person.

[Subs. (5) substituted by s.40 of Act 29/2007]

(6)

[\(Section 41A\(6\)\(a\): Decided cases\)](#)

(a) An investigating officer carrying out an investigation in terms of this section may request any person to-

(i) produce to him or her any book, document, electronic data or thing which such investigating officer on reasonable grounds believes to relate to the matter which he or she is investigating, and which such investigating officer on reasonable ground believes to be-

(aa) on any premises which are owned by or in the possession of or controlled by such person; or

(bb) (bb) in the possession of or under the control of or upon such person; and

(ii) furnish such explanations to him or her as he or she may reasonably require in relation to any such book, document, electronic data or thing.

[\(Section 41A\(6\)\(b\): Decided cases\)](#)

(b) Subject to paragraph (h), an investigating officer carrying out an investigation in terms of this section must apply to a magistrate or a judge for a search warrant for-

(i) any premises on which the investigating officer on reasonable ground believes one or more articles referred to in paragraph (a) may be found; or

(ii) any person whom the investigating officer on reasonable grounds believes to have in his or her possession or upon his or her person or under his or her control one or more articles referred to in paragraph (a).

[\(Section 41A\(6\)\(c\): Decided cases\)](#)

(c) The magistrate or judge to whom an application in terms of paragraph (b) is made may issue the search warrant if it appears to him or her from information on oath that there are reasonable grounds for believing that any such article is-

(i) upon or at any such premises within his or her area of jurisdiction; or

(ii) in the possession or under the control of or upon any such person within his or her area of jurisdiction.

[\(Section 41A\(6\)\(d\): Decided cases\)](#)

- (d) A search warrant issued under paragraph (c) must require the investigating officer and, if so requested by the investigating officer, any named police official or police officials who have agreed to assist in executing the search warrant, to seize the article or articles in question, and must to that end authorise such investigating officer and police official or police officials to search any person identified in the warrant or to enter and search any premises identified in the warrant and to search any person found on or at such premises.
- (e) A search warrant issued under paragraph (c) must be executed by day, unless the magistrate or judge issuing the warrant in the warrant authorises the execution thereof by night.
- (f) A search warrant may be issued under paragraph (c) on any day and must be of force until it is executed or cancelled by the magistrate or judge who issued it or, if such person is not available, by a person with like authority.
- (g) An investigating officer executing a warrant under this section must after such execution, upon demand of any person searched or who owns or is in possession of or controls any premise searched or whose rights in respect of any search or article seized under the warrant may have been affected, hand to such person a copy of the warrant so executed.
- (h) An investigating officer carrying out an investigation in terms of this section may without a search warrant issued under paragraph (c) search any person or premises for the purpose of seizing any article referred to in paragraph (a) if-
  - (i) the person concerned consent to such search for and the seizure of the article in question;
  - (ii) the person who may consent to the search of the premises consents to such search for and the seizure of the article in question; or
  - (iii) the investigating officer on reasonable grounds believes that a search warrant will be issued to him or her under paragraph (c) if he or she applies for such warrant and that the delay in obtaining such warrant would defeat the object of the search.

[Subs. (6) amended by s. 40 of Act 89/97 and substituted by s.40 of Act 29/2007]

(7) .....

[Subs. (7) deleted by s. 40 of Act 89/97]

[\(Section 41A\(8\): Decided cases\)](#)

(8)

(a) The registrar or an investigating officer who carries out an investigation under this section, shall compile a report of the investigation, and a report compiled by an investigating officer shall be submitted to the registrar.

(b)

(i) If such a report reveals *prima facie* evidence of unprofessional conduct contemplated in this Act and no complaint or charge has been lodged or laid or allegation regarding the conduct in question has been made for the purpose of an inquiry in terms of [section 41](#), such report shall be deemed to be a complaint made for that purpose, and the registrar shall serve a copy thereof on the registered person concerned.

(ii) If such a report reveals *prima facie* evidence which makes it desirable that an investigation in terms of [section 51](#) be instituted, the registrar shall serve a copy thereof on the health committee to further investigate and deal with the matter in terms of this Act.

(iii) If such a report does not reveal *prima facie* evidence of unprofessional conduct contemplated in this Act, the registrar shall serve a copy thereof on the registered person concerned.

[Para (b) amended by s. 40 of Act 89/97 and substituted by s. 40 of Act 29/2007]

(c) To the extent that such a report contains statements of witnesses which would have been admissible as oral evidence at an inquiry in terms of [section 41](#) or an investigation in terms of [section 51](#), the provisions of [section 213](#) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), shall apply *mutatis mutandis* in respect of those statements at such an inquiry.

[Para (c) amended by s. 40 of Act 89/97 and substituted by s. 40 of Act 29/2007]

(9)

([Section 41A\(9\)\(a\): Decided cases](#))

(a) A person who carries out or assists with the carrying out of an investigation in terms of this section, shall keep or assist in preserving confidentiality in respect of all facts which come to his or her notice in the performance of his or her functions, and shall not disclose any such fact to any person except the registrar, the president, chairperson of a relevant professional board or the public prosecutor concerned in the case of an offence in terms of this Act, or by order of a court.

(b) Notwithstanding the provisions of paragraph (a), no personal particulars regarding a patient shall be disclosed to any person except by order of a court or with the consent of the presiding officer at an inquiry contemplated in [section 41](#) or an investigation contemplated in [section 51](#).

[Subs. (9) amended by s. 40 of Act 89/97 and substituted by s. 40 of Act 29/2007]

([Section 41A\(10\): Decided cases](#))

(10)

(a) .....

[Para. (a) deleted by s. 40 of Act 89/97]

(b) Such an order shall be executed as if it were a judgment in a civil case in a magistrate's court.

(11) Any person who-

(a) refuses or neglects to produce any book, document, electronic data or thing to any person who is in terms of this section authorized to ask for it;

(b) hinders or obstructs the registrar or an investigating officer in the exercise of his or her powers or the carrying out of his or her duties;

(c) pretends that he or she is the registrar or an investigating officer;

(d) contravenes a provision of subsection (9),

shall be guilty of an offence and liable on conviction-

(i) in the case of a contravention contemplated in paragraph (a), (b) or (c), to a fine or to imprisonment for a period not exceeding twelve months or to both a fine and such imprisonment;

(ii) in the case of a contravention contemplated in paragraph (d), to a fine or to imprisonment for a period not exceeding two years or to both a fine and such imprisonment.

[Subs. (11) substituted by s. 40 of Act 89/97 and s. 40 of Act 29/2007]

(12) The provisions of this section shall be without prejudice to the power of any authority to institute an investigation into any alleged contravention of, or failure to comply with, any provision of this Act.

[S. 41A inserted by s. 5 of Act 58/84]

[\(Section 42: Decided cases\)](#)

#### **42. Matters for and procedure at inquiry by professional boards**

[\(Section 42\(1\): Decided cases\)](#)

(1) Any person registered under this Act who, after a determination made by a preliminary committee of inquiry on minor transgressions or an inquiry held a professional conduct committee, 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 more of the following penalties:-

(a) A caution or a reprimand or a reprimand and a caution;

(Section 42(1)(b): Decided cases)

(b) suspension for a specified period from practising or performing acts specially pertaining to his or her profession;

(c) removal of his or her name from the register;

(d) a prescribed fine;

(e) a compulsory period of professional service as may be determined by the professional board; or

(f) the payment of the costs of the proceedings or a restitution or both.

[Subs. (1) amended by s. 7 of Act 79/90 and s. 41 of Act 89/97 and substituted by s. 41 of Act 29/2007]

(1A) If an appeal is lodged against a penalty of erasure or suspension from practice, such penalty shall remain effective until the appeal is finalised.

[Subs. (1A) inserted by s. 41 of Act 89/97 and substituted by s.41 of Act 29/2007]

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

(3) .....

[Subs. (3) deleted by s. 41 of Act 89/97]

(4)

(a) For the purposes of any inquiry held in terms of [section 41](#), a professional board may take evidence and may, under the hand of the chairperson of the professional board or the registrar, summon witnesses and require the production of any book, record, document or thing, and may, through the chairperson of the professional board or the person presiding at the inquiry, administer an oath to any witness or accept an affirmation from him or her, and may examine any book, record, document or thing which any witness had been required to produce.

[Para. (a) substituted by s. 15 of Act 58/92 and s. 41 of Act 89/97]

(b) A summons to appear before a professional board 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 chairperson of the professional board 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.

[Para. (b) substituted by s. 41 of Act 89/97]

(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 chairperson of a professional board or the person presiding at the inquiry to do so;

[Subpara. (ii) substituted by s. 15 of Act 58/92 and s. 41 of Act 89/97]

(iii) refuses to produce any book, record, document or thing which he or she has in terms of the summons been required to produce,

(iv) .....

[Subpara. (iv) deleted by s. 41 of Act 89/97]

shall be guilty of an offence and on conviction liable to a fine determined by the Minister in consultation with the Minister of Justice by notice in the *Gazette*: 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 High Court is entitled.

[Words following para. (c)(iii) amended by s. 41 of Act 89/97 and substituted by s. 41 of Act 29/2007]

[\(Section 42\(5\): Decided cases\)](#)

(5) The chairperson of a professional board, where the professional board itself holds an inquiry in terms of [section 41](#), or the chairperson of a professional conduct committee of a professional board, where such a committee holds an inquiry under powers delegated to it by the professional board, 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 professional board or such committee, as the case may be, on matters of law, procedure or evidence.

[Subs. (5) substituted by s. 41 of Act 89/97 and s. 41 of Act 29/2007]

(6) .....

[Subs. (6) deleted by s. 8 of Act 33/76]

(7) The professional board may, if it deems fit, and subject to such conditions 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.



[Subs. (7) amended by s. 41 of Act 89/97]

(8) If a person registered in terms of this Act (in this section referred to as the respondent) is alleged to be guilty of unprofessional conduct and the professional board on reasonable grounds is of the opinion that it shall impose a fine as determined by the Minister in consultation with the Minister of Justice by notice in the *Gazette* on conviction after an inquiry under [section 41](#), the professional board may issue a summons as prescribed on which an endorsement is made by the professional board or the registrar that the respondent may admit that he or she is guilty of the said conduct and that he or she may pay the fine stipulated without appearing at the said inquiry.

[Subs. (8) added by s. 7 of Act 79/90, amended by GN R1140/94 and GN R19/97 and substituted by s. 41 of Act 89/97 and s. 41 of Act 29/2007]

(9) Where a summons in terms of subsection (8) is issued against a respondent, he or she may, without appearing at an inquiry in terms of [section 41](#), admit his or her guilt in respect of the conduct referred to in subsection (1) by paying the stipulated fine (in this section referred to as the admission of guilt fine) to the relevant professional board before a date specified in the summons.

[Subs. (9) added by s. 7 of Act 79/90 and substituted by s. 41 of Act 89/97 and s. 41 of Act 29/2007]

(10)

(a) Any penalty imposed under this section, excluding an admission of guilt fine, shall be paid to the professional board within 14 days after such imposition.

(b) The imposition of a penalty shall have the effect of a civil judgment of the magistrate's court of the district in which the inquiry under [section 41](#) took place.

[Subs. (10) added by s. 7 of Act 79/90 and substituted by s. 41 of Act 89/97]

(11) The Minister may on the recommendation of the professional board amend the amount mentioned in subsection (8) by notice in the *Gazette*.

[Subs. (11) added by s. 7 of Act 79/90 and substituted by s. 41 of Act 89/97]

#### **43. Postponement of imposition of penalty and suspension of operation of penalty**

(1) Where a professional board finds a person referred to in [section 42\(1\)](#) guilty of conduct referred to therein, it may -

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

[\(Section 43\(1\)\(b\): Decided cases\)](#)

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

[Para. (b) substituted by s. 8 of Act 79/90]

[Subs. (1) amended by s. 42 of Act 89/97]

(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 professional board is satisfied that the person concerned has observed all the relevant conditions, the professional board shall inform the person concerned that no penalty will be imposed upon him or her.
- (b) If the execution of a penalty or any part of a penalty has been suspended in terms of subsection (1)(b), and the professional board is satisfied that the person concerned has observed all the relevant conditions, the professional board shall inform such person that such penalty or part thereof will not be executed.
- (c) If the execution of a penalty or any part 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 professional board shall put such penalty or part thereof into operation, unless such person satisfies the professional board that the non-observance of the condition concerned was due to circumstances beyond his or her control.

[Subs. (2) amended by s. 8 of Act 79/90 and substituted by s. 42 of Act 89/97]

#### **44. Effect of suspension or removal from register**

Every person who has been suspended or whose name has been removed from the register in terms of [section 42](#) shall, if his or her profession is one which, under this Act, cannot be lawfully practised by an unregistered person, be disqualified from practising his or her profession and his or her registration certificate shall be deemed to be cancelled until the period of suspension has expired or until his or her name has been restored to the register by the professional board.

[S. 44 amended by s. 43 of Act 89/97 and substituted by s. 42 of Act 29/2007]

#### **45. Cognizance by professional boards of conduct of registered persons under certain circumstances**

[\(Section 45\(1\): Decided cases\)](#)

- (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 professional board in terms of the provisions of this Chapter if the professional board is of the opinion that such offence constitutes unprofessional conduct, 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 professional board in extenuation of the conduct in question.

[Subs. (1) substituted by s. 44 of Act 89/97]

(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 unprofessional conduct on the part of a registered person, or of conduct which, when regard is had to such person's profession, is unprofessional, 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 relevant professional board.

[Subs. (2) substituted by s. 44 of Act 89/97 and s. 43 of Act 29/2007]

(3) .....

[Subs. (3) deleted by s. 44 of Act 89/97]

(4) .....

[Subs. (4) deleted by s. 44 of Act 89/97]

#### **46. Penalty for false evidence**

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.

#### **47. Limitation of liability**

Save as is provided in this Act, the council or a professional board or any member or officer thereof shall not be liable in respect of any act done in good faith or duty performed in accordance with this Chapter.

[S. 47 substituted by s. 54 of Act 88/96 and s. 45 of Act 89/97]

48. ....

[S. 48 amended by s. 7 of Act 43/80 and repealed by s. 46 of Act 89/97]

#### **49. Council to make rules relating to offences under this Chapter**

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

[Subs. (1) substituted by s. 47 of Act 89/97]

(2) .....

[Subs. (2) deleted by s. 44 of Act 29/2007]

50. ....

[S. 50 amended by s. 9 of Act 33/76 and repealed by s. 48 of Act 89/97]

**51. Regulations relating to investigations in respect of impaired persons registered in terms of this Act**

The Minister may, after consultation with the council and the professional boards, make regulations relating to investigations in respect of students or persons registered in terms of this Act who appear to be impaired, on the assessment of their condition, the conditions to be imposed on their registration or practice, their suspension or removal from practising, revocation of conditions, suspension or removal and on acts of unprofessional conduct committed before or during assessment or investigation.

[S. 51 substituted by s. 49 of Act 89/97 and s. 45 of Act 29/2007]

**CHAPTER V**

**GENERAL AND SUPPLEMENTARY PROVISIONS**

[\(Section 52: Decided cases\)](#)

**52. Dispensing of medicines**

(1) A medical practitioner, dentist or other person registered in terms of this Act -

[\(Section 52\(1\)\(a\): Decided cases\)](#)

(a) may compound or dispense medicines only on the authority and subject to the conditions of a licence granted by the Director-General in terms of the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965);

(b) shall not be entitled to keep an open shop or pharmacy.

(2) For the purposes of this section 'open shop' means a situation where the supply of medicines and scheduled substances to the public is not done by prescription by a person authorized to prescribe medicine.

[S. 52 substituted by s. 6 of Act 58/84 and s. 50 of Act 89/1997 w.e.f. 2 May 2004 - See Proc. R26/GG 24627/20030323]

52A. ....

[S. 52A inserted by s. 17 of Act 36/77, substituted by s. 7 of Act 58/84 and s. 25 of Act 94/91 and repealed by s. 51 of Act 89/97]

**53. Fees charged by registered persons**

[Heading substituted by s. 46 of Act 29/2007]

(1) Every person registered under this Act (in this section referred to as the practitioner) shall, unless the circumstances render it impossible for him or her 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 or she intends to charge for such services -

(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 or her claims payment from any person (in this section referred to as the patient) shall, subject to the provisions of [section 32](#) of the Medical Schemes Act, 1998 (Act No. 131 of 1998), furnish the patient with a detailed account within a reasonable period.

[Subs. (2) substituted by s. 43 of Act 23/93 and s. 46 of Act 29/2007]

(3)

(a) The patient may, within three months after receipt of the account referred to in subsection (2), apply in writing to the professional board to determine the amount which in the opinion of the professional board should have been charged in respect of the services to which the account relates, and the professional board 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 professional board determines the said amount, it shall afford the practitioner concerned an opportunity to submit to it in writing his or her case in support of the amount charged.

(b) .....

(c) The Minister may, after consultation with the council, make such regulations as he or she may deem necessary in relation to the procedure which a professional board shall follow in disposing of an application under this subsection.

[Para. (c) substituted by s. 46 of Act 29/2007]

(d) A professional board may from time to time determine and publish the fees used by the professional board as norm for the determination of amounts contemplated in paragraph (a).

[Subs. (3) amended by s. 9 of Act 52/78 and s. 55 of Act 88/96 and substituted by s. 52 of Act 89/97]

(4) A claim which is the subject of an application referred to in subsection (3) of which notice has been given by the professional board 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: Provided that if the patient has paid to the practitioner an amount in settlement or part settlement of such claim and such amount exceeds the amount so determined, the practitioner shall pay the amount by which that payment exceeds the amount so determined back to the patient.

[Subs. (4) amended by s. 3 of Act 38/82 and s. 52 of Act 89/97]

- (5) This section shall not be deemed to divest a professional board 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.

[Subs. (5) substituted by s. 52 of Act 89/97]

- (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.

**53A.** .....

[S. 53A inserted by s. 10 of Act 52/78, amended by s. 8 of Act 43/80 and s. 1 of Act 66/81 and repealed by s. 8 of Act 58/84]

**54.** .....

[S. 54 repealed by s. 53 of Act 89/97]

**54A. Exemption from operation of provisions of Act**

- (1) The Minister may in consultation with the council by notice in the *Gazette* exempt any juristic person or class of juristic persons specified in the notice, either generally or subject to such conditions as may be specified in the notice, from the operation of any of the provisions of this Act, so as to enable such juristic person to practise a profession, likewise specified, in respect of which registration in terms of this Act is a prerequisite for practising.

[Subs. (1) amended by s. 54 of Act 89/97]

- (2) Any reference in this Act or any other law to a person registered in terms of this Act to practise a profession referred to in subsection (1) or to a partner of or a partnership in relation to such registered person, shall be deemed to include a reference to a juristic person referred to in subsection (1) or to a member of such a juristic person, as the case may be, unless the context otherwise indicates.

- (3) The Minister may in consultation with the council at any time by notice in the *Gazette* amend or repeal any notice issued under subsection (1).

[Subs. (3) substituted by s. 54 of Act 89/97]

[S. 54A inserted by s. 16 of Act 58/92]

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

Any person who -

- (a) procures or attempts to procure for himself or herself 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) .....  
[Para. (c) deleted by s. 55 of Act 89/97]
- (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
- (g) supplies or offers to supply to any person not registered under this Act or the Nursing Act, 2005, 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 humankind, knowing that such instrument or appliance will be used by such unregistered person for the purpose of performing an act which such unregistered person is in terms of the provisions of this Act or the said Nursing Act prohibited from performing,

[Para. (g) substituted by s. 17 of Act 58/92 and s. 47 of Act 29 /2007]

shall be guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 12 months or to both a fine and such imprisonment.

[Words following para. (g) substituted by s.47 of Act 29/2007]

55A. ....

[S. 55A inserted by s. 11 of Act 52/78 and repealed by s. 18 of Act 58/92]

**56. Death of person undergoing procedure of therapeutic, diagnostic or palliative nature**

The death of a person undergoing, or as a result of, a procedure of a therapeutic, diagnostic or palliative nature, or of which any aspect of such a procedure has been a contributory cause, shall not be deemed to be a death from natural causes as contemplated in the Inquest

Act, 1959 (Act No. 58 of 1959), or the Births, Marriages and Deaths Registration Act, 1992 (Act No. 51 of 1992).

[S. 56 substituted by s. 48 of Act 29/2007]

**57. Commission on prescriptions**

- (1) No medical practitioner or dentist or any other person registered in terms of this Act shall accept or obtain from a pharmacy any commission or other reward in connection with any prescription given by such medical practitioner or dentist or person.
- (2) Any medical practitioner or dentist or any other person registered in terms of this Act who contravenes the provisions of subsection (1) shall be guilty of an offence and on conviction liable to a fine as determined by the Minister in consultation with the Minister of Justice by notice in the *Gazette*, and in addition may be dealt with by the professional board in terms of the provisions of Chapter IV.

[S. 57 substituted by s. 56 of Act 89/97]

**58. ....**

[S. 58 repealed by s. 57 of Act 89/97]

**59. Limitations in respect of unregistered persons**

- (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 registered under this Act to perform such act.
- (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: Provided that nothing in this subsection shall be construed as prohibiting the education and training of health professionals under the supervision of a health professional, or the employment in any hospital or similar institution of any person undergoing education and training with a view to registration in terms of this Act in respect of any health profession, under the supervision of a health professional.

[S. 59 amended by s. 58 of Act 89/97 and substituted by s. 49 of Act 29/2007]

**60. Investigation of matters relating to the education or training of certain persons**

- (1) Notwithstanding anything to the contrary contained in any law, any person who has been authorized by a professional board in writing to investigate any matter relating to the education or training of any person who is undergoing such education or training for the purpose of qualifying 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 education or training of any such person.

- (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 or her 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 or to imprisonment for a period not exceeding 12 months or to both a fine and such imprisonment.

[S. 60 amended by s. 59 of Act 89/97 and substituted by s. 50 of Act 29/2007]

## 61. Regulations

[\(Section 61\(1\): Decided cases\)](#)

- (1) The Minister may, after consultation with the council, make regulations relating to -

[Words preceding para. (a) substituted by s. 51 of Act 29/2007]

(a)

(i) the registration by the council of students in registrable professions studying at any accredited educational institution or training facility, the fees payable in respect of such registration and the removal by the council from the register in question of the names of such students so registered;

(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 educational institution or training facility;

(iv) the minimum requirements of the curricula and the standards of education, training and examinations to qualify for registration in terms of this Act, which must be maintained at every educational institution or training facility offering education and training in any such profession, in order to secure recognition under this Act of the qualifications in question at such educational institution or training facility;

[Para. (a) substituted by s. 51 of Act 29/2007]

(b)

(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 in terms of this Act;

(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 and facilities at which such education or training may be taken or undergone and any other requirements in connection with such education or training;

(v) the registration by the council of persons taking or undergoing such education or training provided for in [section 61A\(1\)\(l\)](#);

(vi) .....

(vii) the appointment and remuneration of moderators and examiners, as well as any other person required to assist in such examinations;

(viii) the issue of certificates by the council and any other matter incidental to such examinations or the issue of such certificates;

(ix) the nature and duration of the training to be undergone by persons who have obtained such certificates but who have not yet been registered, before they may be so registered;

(x) the nature and duration of the training to be undergone by any person who has obtained a qualification in a profession prescribed in terms of [section 24](#) or [25](#), but who is not yet registered as such, before he or she may be registered as such;

[Para. (b) substituted by s. 51 of Act 29/2007]

(c) the conditions under which any registered person may practise his or her profession;

(d) the names which in terms of [section 40](#) (c) may not be used;

[Para. (d) substituted by s. 51 of Act 29/2007]

(e)

(i) the registration of interns, where applicable, to a registrable profession, including the recording of particulars of their training and proof of the performance thereof;

(ii) the hospitals or other facilities at which or the persons with whom such training may be undertaken and the accreditation of such facilities or persons;

(iii) any other matter incidental to the registration or training of interns;

[Para. (e) substituted by s. 51 of Act 29/2007]

(f)

- (i) the registration in terms of [section 35](#) of the specialities or subspecialities or professional categories or additional professional categories of the health professions;
- (ii) the requirements to be satisfied, including the education and training to be obtained, the nature and duration of the education and training to be undergone and the qualifications to be held by persons before any person may be registered as a specialist or in any subspeciality, professional category or additional professional category;
- (iii) the circumstances under which any applicant for registration as a specialist shall be exempted from any of such requirements;
- (iv) conditions in respect of the practising of a specialist or a person whose subspeciality, professional category or additional professional category has been registered, including conditions restricting the practice of such a specialist or any such person to the speciality, subspeciality or professional category or additional professional category in which he or she holds registration;

[Para. (f) substituted by s. 51 of Act 29/2007]

(g)

- (i) .....
- (ii) the requirements for a valid nomination of a candidate for appointment by the Minister as a member of a professional board;

[Para. (g) substituted by s. 51 of Act 29/2007]

(h)

- (i) the manner in which complaints, charges or allegations brought against a registered person shall be lodged;
- (ii) the method of summoning a respondent and the penalties for failure or refusal on the part of any such respondent to respond to or attend or for obstructing or interrupting any part of the professional conduct inquiry;
- (iii) the continuation of a professional conduct inquiry, after a plea has been lodged, by the committee conducting the inquiry, should one or more members of the committee be unable to continue to serve: Provided that not less than four of the original members of the committee are available to continue with the inquiry;

[\(Section 61\(1\)\(h\)\(iv\): Decided cases\)](#)

- (iv) the procedure to be followed to lodge an appeal with an appeal committee and the time within which an appeal may be lodged;

(v) any other matter relating to the conduct of such an inquiry;  
[Para. (h) substituted by s. 51 of Act 29/2007]

(i) the accreditation by a professional board of pathology laboratories providing services which fall within the ambit of this Act, the laying down of conditions with which such laboratories must comply to obtain accreditation;  
[Para. (i) substituted by s. 51 of Act 29/2007]

(j) any matter which in terms of this Act is required to be prescribed by regulation; and

(k) generally, all matters which the Minister considers necessary or expedient to prescribe in order that the purposes of this Act may be achieved, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.

[\(Section 61\(2\): Decided cases\)](#)

(2) The Minister may, after consultation with the council, if he or she deems it to be in the public interest, amend or repeal any regulation or rule made in terms of this Act.

(3) .....

[Subs. (3) deleted by s. 51 of Act 29/2007]

(4) Any regulation made under this section may prescribe penalties for any contravention thereof or failure to comply therewith.

(5) 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 by which it was issued or made.

(6) The Minister shall, not less than three months before any regulation is made under subsection (1), cause the text of such regulation to be published in the *Gazette* together with a notice declaring his or her intention to make such regulation and inviting interested persons to furnish him or her with any comments thereon or any representations they may wish to make in regard thereto.

(7) The provisions of subsection (6) shall not apply in respect of -

(a) any regulation which, after the provisions of subsection (6) have been complied with, has been amended by the Minister in consequence of representations received by him or her in pursuance of the notice issued thereunder; and

(b) any regulation in respect of which the Minister is advised by the council that the public interest requires it to be made without delay.

[S. 61 amended by s. 10 of Act 33/76, s. 18 of Act 36/77, s. 9 of Act 43/80, s. 4 of Act 38/82, s. 9 of Act 58/84 and s. 9 of Act 79/90 and substituted by s. 60 of Act 89/97]

## 61A. Rules

(1) The council may make rules or adopt policies relating to -

[Words preceding para. (a) substituted by s. 52 of Act 29/2007]

(a) the conduct of the business and the procedure at meetings of the council and committees of the council and the manner in which minutes of such meetings shall be kept;

[Para. (a) substituted by s. 52 of Act 29/2007]

(b) the manner in which contracts shall be entered into on behalf of the council, the accounts of the council shall be kept and the manner in which money accruing to the council shall be disposed of;

(c) the professional fees and allowances which may be paid to members of the council or to members of professional boards established in terms of [section 15](#) or to members of committees or subcommittees of the council or professional boards and other persons who render services to the council or professional boards;

[Para. (c) substituted by s. 52 of Act 29/2007]

(d) .....

[Para. (d) deleted by s. 52 of Act 29/2007]

(e) any fees payable in terms of this Act, which may include-

(i) registration fees;

(ii) annual fees provided for in [section 62](#);

(iii) fees payable for restoration of-

(aa) a name to a register from which it had been removed and such fees may vary according to the reason for the removal thereof and the period for which it was so removed;

(bb) a person as a specialist or in a subspeciality or an additional qualification;

(cc) a professional category or an additional professional category;

(iv) fees payable for the issuing of certificates;

(v) fees payable for examinations conducted by or on behalf of professional boards; and

(vi) fees payable for accreditation of educational institutions, training facilities, activities for continuing professional development, and pathology laboratories;

[Para. (e) substituted by s. 52 of Act 29/2007]

(f) the forms of the registers to be kept in terms of this Act and of all certificates which may be issued 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) the returns and information to be furnished by any person registered in terms of this Act;

(i) .....

[Para. (i) deleted by s. 52 of Act 29/2007]

(j) .....

[Para. (j) deleted by s. 52 of Act 29/2007]

(k) .....

[Para. (k) deleted by s. 52 of Act 29/2007]

(l) the qualifications which may be registered as *specialist and* additional qualifications in terms of [section 35](#); and

[Para. (l) substituted by s. 52 of Act 29/2007]

(m) any matter which in terms of this Act is required to be or may be promulgated as rules.

(2) The council shall, after consultation with the professional boards, not less than three months before any rule is made in terms of this Act, cause the text of such rule to be published in the *Gazette* together with a notice declaring the council's intention to make such rule and inviting interested persons to furnish the council with any comments thereon or any representations they may wish to make in regard thereto.

[Subs. (2) substituted by s. 52 of Act 29/2007]

[S. 61A inserted by s. 61 of Act 89/97]

## **62. Levying of annual fees on certain registered persons**

The Minister may, on the recommendation of the council, at any time by notice in the *Gazette* authorise the council to prescribe a fee to be paid annually to the council by the registered persons concerned: 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 and may vary such fee according to whether it is paid before or after a specific date, and the profession and registration category in which they hold registration.

(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 [section 19\(1\)\(d\)](#), it shall be a condition precedent for the restoration of his or her name to the register that he or she pays the outstanding annual fee or fees and such restoration fees as may be prescribed.

(4) A professional board may by resolution exempt for an indefinite or definite period any registered person specified in the resolution from payment of any annual fee prescribed in terms of subsection (1).

[S. 62 amended by s. 10 of Act 79/90 and substituted by s. 62 of Act 89/97 and s. 53 of Act 29/2007]

**63.** .....

[S. 63 amended by s. 11 of Act 79/90 and repealed by s. 63 of Act 89/97]

**63A.** .....

[S. 63A inserted by s. 5 of Act 38/82, substituted by s. 12 of Act 18/95 and s. 64 of Act 89/97 and repealed by s. 54 of Act 29/2007]

[\(Section 64: Decided cases\)](#)

**64. Repeal of laws**

(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.

(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) .....

[Subs. (3) deleted by s. 55 of Act 29/2007]

(4) .....

[Subs. (4) deleted by s. 55 of Act 29/2007]

65. ....

[S. 65 repealed by s. 19 of Act 58/92]

**66. Short title and commencement**

This Act shall be called the Health Professions Act, 1974, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

[S. 66 substituted by s. 65 of Act 89/97]

**Schedule**

**LAWS REPEALED**

| <b>No. and year of law</b> | <b>Title</b>  | <b>Extent of repeal</b>                |
|----------------------------|---|--|
| Act No. 13 of 1928         | Medical, Dental and Pharmacy Act, 1928  | The whole except sections 83 and 83bis |
| 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 Rehabilitation 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                 |