

CHIROPRACTORS ACT 2002



**BERMUDA
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CHIROPRACTORS ACT 2002

[Date of Assent: 18 December 2002]

[Operative Date: Notice in Gazette]

WHEREAS it is expedient to regulate the practice of chiropractic:

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:—

Citation

1 This Act may be cited as the Chiropractors Act 2002.

Interpretation

2 In this Act —

"chiropractic" means the assesment of conditions related to the spine, nervous system and joints and the diagnosis, prevention and treatment, primarily by adjustment, of —

- (a) dysfunctions or disorders arising from the structures or functions of the spine and the effects of those dysfunctions on the nervous system; and
- (b) dysfunctions or disorders arising from the structures or functions of the joints.

"chiropractor" means a person registered under this Act;

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"Council" means the Chiropractic Registration Council established under section 3;

"Minister" means the Minister responsible for health;

"medical practitioner" means a person entitled to practice in Bermuda as a medical practitioner under the Medical Practitioners Act 1950;

"prescribed" means prescribed by regulations under section 11;

"the Registrar" means the Permanent Secretary of the Ministry of Health and Family Services.

Chiropractic Registration Council

3 (1) There is established a body of persons to be called the Chiropractic Registration Council which shall regulate the practice of chiropractic so as to ensure a high standard of practice and safeguard the welfare of the public with regard to chiropractic services.

(2) The Council shall consist of —

(a) a chairman;

(b) a medical practitioner;

(c) a person considered by the Minister to have training and experience in matters of professional ethics; and

(d) two persons nominated by the professional association of chiropractors.

(3) The chairman and members of the Council shall be appointed by the Minister for such period as the Minister may specify in the instrument of appointment.

(4) The provisions of the Schedule shall have effect with respect to the Council.

Functions

4 The functions of the Council are to —

(a) prescribe initial and continuing qualifications for registration;

(b) assess applications and decide if applicants qualify for registration;

(c) to establish requirements for the continuing professional education of chiropractors;

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- (d) prescribe and monitor adherence to standards of practice and ethical guidelines for registered practitioners;
- (e) investigate complaints and exercise discipline or professional remediation of registered practitioners, by revocation, restriction or suspension of registration, by reprimand, retraining requirement, fine or other means.

Establishment and maintenance of register

5 (1) No person shall practise chiropractic in Bermuda unless his name appears on the register maintained by the Registrar for the purposes of this Act.

(2) A person seeking to be registered shall make application therefor in the prescribed manner to the Council.

(3) The Council shall consider the application and may either approve or reject it.

(4) Where the Council approves the application, it shall direct the Registrar to register the applicant, that is to say, to—

- (a) enter the required particulars relating to the applicant in the register; and
- (b) issue to the applicant a certificate of registration in the prescribed form valid for a period of two years.

(5) Where the Council rejects the application, it shall record its decision and the reasons for it in writing, and direct the Registrar to inform the applicant.

(6) An applicant who is aggrieved by a decision of the Council under this section may, in accordance with the rules, appeal to the Supreme Court within twenty-eight days of receiving notice thereof.

(7) Subject to section 8 and the regulations, an applicant shall be registered if the applicant—

- (a) has successfully completed a prescribed training programme and a prescribed certification examination; and
- (b) pays the fee for registration prescribed under the Government Fees Act 1965.

(8) The Registrar shall maintain the register at his office.

(9) The register is an official record and shall set out—

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- (a) the names, addresses and qualifications of registered chiropractors; and
- (b) such other particulars as the Registrar may require.

(10) It is the duty of the Registrar to keep the register, to remove the names of persons who have died or who have ceased to be ordinarily resident in Bermuda and to make necessary alterations in the registered particulars of registered chiropractors.

Annual gazetting of particulars

6 (1) As soon as may be after 1st January in every year the Registrar shall publish in the Gazette a notice, in such form as he sees fit, setting forth the names and other particulars entered in the register on that date.

(2) A copy of the latest-gazetted such notice is *prima facie* evidence in all courts that the persons whose names are included in the notice are registered chiropractors; and the absence of a person's name from such a notice is *prima facie* evidence in all courts that he is not a registered chiropractor.

Renewal of certificate

7 The Council shall direct the Registrar to renew a certificate if the registered chiropractor—

- (a) applies to the Council for the renewal of his certificate;
- (b) pays the renewal fee prescribed under the Government Fees Act 1965 by the date on which his certificate expires; and
- (c) provides evidence of having met such continuing education requirements as the Council may determine.

Removal of name from register for crime, infamous conduct, incapacity etc.

8 (1) Where —

- (a) a person whose name appears on the register is convicted by any court in Bermuda or elsewhere of a criminal offence which, in the opinion of the Council, renders him unfit to be registered;
- (b) such a person is, in the opinion of the Council, guilty of infamous conduct in any professional respect;
- (c) the Council is satisfied that the name of such a person has been fraudulently entered on the register ; or

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- (d) the Council is satisfied that such a person is, by reason of mental disorder or incapacity, incapable of carrying on his profession,

the Council may, if it thinks fit, direct that the person's name shall be removed from the register.

(2) A direction shall not be given under subsection (1) save after an inquiry in accordance with the regulations.

(3) Any person aggrieved by a direction of the Council under subsection (1) may, at any time within twenty-eight days from the date of receiving notice of the direction, appeal against the direction to the Supreme Court in accordance with the rules.

(4) A direction for the removal of a name from the register shall take effect —

- (a) where no appeal under this section is brought against the direction within the time limited for the appeal, on the expiration of that time;
- (b) where such an appeal is brought and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal;
- (c) where such an appeal is brought and is not withdrawn or struck out as aforesaid, if and when the appeal is dismissed.

Use of title of chiropractor

9 (1) A person shall not practice or carry on business under any name, style or title containing the words "chiropractor" or "registered chiropractor" unless he is registered under this Act and holds a valid certificate of practice.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of \$1000.

False representations etc.

10 (1) Any person who procures or attempts to procure the entry of a name on the register by wilfully making or producing, or causing to be made or produced any declaration, certificate or representation he knows to be false is guilty of an offence and liable on summary conviction to a fine of \$2000.

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Regulations and rules

11 (1) The Minister may make regulations for the better administration of this Act and such regulations may—

- (a) prescribe anything which, under this Act, is required or permitted to be prescribed;
- (b) prescribe fees payable in connection with any examination or test required to be undertaken by an applicant;
- (c) prescribe the procedure to be followed by the Council;
- (d) prescribe the manner in which any notice required by the Act or regulations to be served on any person shall be served;
- (e) regulate the making of applications for registration and provide for the evidence to be produced in support of an application;
- (f) regulate the scope of chiropractic.

(2) The power of the Chief Justice to make rules under section 62 of the Supreme Court Act 1905 shall extend to the making of rules regulating the practice and procedure to be followed on an appeal to the Supreme Court under section 8(3), and the fees payable in connection therewith.

(3) Regulations under subsection (1) are subject to the negative resolution procedure.

Commencement

12 This Act comes into operation on such date as the Minister may appoint by notice published in the Gazette.

SCHEDULE

THE CHIROPRACTORS REGISTRATION COUNCIL

1 A member of the Council may resign his office any time by notice in writing given to the Minister.

2 The Minister may declare the office of a member of the Council vacant if he is satisfied that the member—

- (a) is unable through mental or physical incapacity or absence from Bermuda to perform the functions of his office;

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(b) has failed, without adequate cause, to attend three successive meetings of the Council;

(c) has been sentenced to imprisonment for the commission of a criminal offence;

(d) has had his name removed from the register under section 8.

3 (1) A person appointed or elected to fill the place of a member of the Council before the end of the member's term of office shall hold office so long only as the vacating member would have held office.

(2) Where the place of a member of the Council becomes vacant before the end of his term of office and the unexpired portion of his term of office is less than three months, the vacancy need not be filled.

4 A person who has held office as a member of the Council shall be eligible for re-appointment.

5 The Council may act notwithstanding any vacancy in its membership, and no act of the Council shall be deemed to be invalid only by reason of a defect in the appointment or election of a member thereof.

6 Subject to the foregoing provisions of this Schedule, the Council may determine its quorum and procedure.

7 The Council shall meet as often as may be necessary for it to dispatch its business under this Act.

8 A minute shall be made of every decision of the Council.

9 (1) Where any matter is before the Council under section 5 or 7, a member of the Council may, with the leave of the chairman, withdraw on the ground that he is personally acquainted with the facts of the case or for any other reason which the chairman deems sufficient and the chairman may himself withdraw on any such ground.

(2) Where a member has so withdrawn, the chairman may request the Minister to appoint some person to be a member of the Council for the purpose of those proceedings, and the Minister may, if he thinks fit, make such an appointment, whereupon the person so appointed shall be deemed to be a member of the Council for such purpose.

10 In any matter before the Council the chairman or person acting as chairman shall have a deliberative as well as a casting vote.

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For the purpose of this Schedule a reference to a member or the membership of the Council shall, unless the context requires otherwise, be construed as including the chairman.