



**BERMUDA  
1973 : 51**

**ALLIED HEALTH PROFESSIONS ACT 1973**

*[NB formerly the Professions Supplementary to Medicine Act 1973. Title amended by 2006:34 s.2 effective 9 February 2007]*

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FIRST SCHEDULE

SECOND SCHEDULE

[25 June 1973]

[preamble and words of enactment omitted]

### Short title

1 This Act may be cited as the Allied Health Professions Act 1973.

[Section 1 inserted by 2006:34 s.3 effective 9 February 2007. Act formerly entitled Professions Supplementary to Medicine Act 1973.]

### Interpretation

1A (1) In this Act, unless the context otherwise requires —

"appropriate authority" in relation to a specified profession, means —

- (a) the Board established for that profession;
- (b) where there is no such Board, the Council;

"assistant" means a person who is enrolled under section 4P;

"Bermuda Medical Council" means the Bermuda Medical Council constituted under the Medical Practitioners Act 1950 [title 30 item 8];

"Board" means a Board established under section 4E;

"Council" means the Council for Allied Health Professions established under section 3;

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"medical practitioner" means a person entitled to practise in Bermuda as a medical practitioner under the Medical Practitioners Act 1950 [*title 30 item 8*];

"Minister" means the Minister responsible for Health;

"prescribed" means prescribed by regulations;

"professional misconduct" includes —

- (a) incompetence or negligence in the provision of professional services;
- (b) improper or unethical conduct in relation to the provision of professional services; and
- (c) a contravention of or a failure to comply with —
  - (i) a provision of this Act;
  - (ii) a code of conduct or professional standards of practice or a statement issued under section 10 applicable to registered persons, assistants or specified professions and established by the Council under this Act;

"register" means the register of Allied Health Professions, established by section 4N(1);

"registered person" means a person who is registered under section 5 to practice a specified profession;

"Registrar" means the person who is designated under section 4M as Registrar;

"regulations" means regulations prescribed under section 14;

"roll" means the roll of Allied Health Professions established under section 4O(1);

"rules" means rules prescribed under section 14;

"specified profession" means an allied health profession specified in the First Schedule.

(2) Where the Council is the appropriate authority the Council shall, so far as is practicable, discharge their functions under this Act in consultation with practitioners of the specified profession concerned, but no court shall inquire whether or not there has been such consultation.

*[Section 1 amended by 2000:2 s.2 effective 8 March 2000; renumbered as 1A and amended by 2006:34 s.4 effective 9 February 2007]*

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### **Act not to apply in relation to certain armed forces**

2 Nothing in this Act shall apply to the practice of a specified profession by a person who is an officer or employee of any of the naval, military or air forces of Her Majesty or of the United States of America —

- (a) on or in relation to a person who is a member of such a force or the family of such a member; or
- (b) on or in relation to a person who is employed directly by such a force.

### **Establishment and constitution of Council**

3 (1) There is established for all the specified professions a body to be known as the Council for Allied Health Professions.

(2) The Council shall consist of —

- (a) the Chairman, appointed by the Minister;
- (b) one representative elected by the Board of each specified profession for which a Board is established, from among registered persons practising that profession;
- (c) one representative of each of the specified professions for which no Board is established, appointed by the Minister from among registered persons practising that profession;
- (d) a medical practitioner appointed by the Minister after consultation with the Bermuda Medical Council; and
- (e) a person appointed by the Minister who appears to him to be qualified by training or experience or both to assist the Council in matters of a legal or ethical nature.

(3) The provisions contained in the Second Schedule shall have effect with respect to the Council.

*[Section 3 substituted by 2006:34 s.5 effective 9 February 2007]*

### **Functions of Council**

4 The functions of the Council are to —

- (a) promote the interests of patients and other members of the public in relation to the performance of Boards, registered persons and specified professions;
- (b) coordinate the activities of Boards and specified professions, determine their relationship with the medical profession and other related health professions and advise the Minister in respect thereto;

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- (c) in addition to any statement prepared by an appropriate authority in accordance with section 10, establish codes of conduct or professional standards of practice applicable to registered persons, assistants or specified professions and encourage conformity with them;
- (d) direct the registration of persons and the enrolment of assistants;
- (e) exercise disciplinary control over registered persons and assistants and establish administrative processes for handling complaints received against them;
- (f) after consultation with the Board of a specified profession, if there is one, establish –
  - (i) qualifications and practical experience required for registration in that profession; and
  - (ii) requirements for the continuing education of registered persons and assistants in that profession;
- (g) advise the Minister on whether —
  - (i) a health profession should be designated as a specified profession under this Act for the purposes of section 4D; or
  - (ii) a specified profession should be removed from the First Schedule in accordance with section 15 (1)(b);
- (h) investigate and report to the Minister on the performance by each Board of its functions;
- (i) where a Board performs functions corresponding to those of another body (including another Board), investigate and report to the Minister on how the performance of such functions by those other bodies compares with the performance of the functions by the Board;
- (j) recommend to any Board changes in the way in which it performs any of its functions; and
- (k) carry out any other function assigned to it by the Minister.

*[Section 4 substituted by 2006:34 s.5 effective 9 February 2007]*

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### **Application for designation**

4A (1) An association of members of a health profession, or if there is no association five or more members of a health profession, may apply to the Minister for designation of the profession as a specified profession.

(2) An application under subsection (1) shall —

(a) be in the form and contain the information required by the Minister; and

(b) be submitted with the fee referred to in section 14A.

(3) After receiving an application under subsection (1), the Minister may —

(a) approve or refuse to approve the application without investigation; or

(b) conduct an investigation in accordance with section 4C to determine whether a health profession should be designated.

*[Section 4A inserted by 2006:34 s.5 effective 9 February 2007]*

### **Investigation by Minister where no application**

4B The Minister may, in the absence of an application under section 4A (1), on his own initiative conduct, in accordance with section 4C, an investigation to determine whether a health profession should be designated.

*[Section 4B inserted by 2006:34 s.5 effective 9 February 2007]*

### **Investigation regarding designation**

4C (1) If the Minister decides to conduct an investigation under section 4A (3) or 4B, he shall give public notice of the investigation in the Gazette.

(2) The Minister may, for the purposes of the investigation —

(a) require the applicant to provide further information;

(b) examine the directors and officers of the association of members of a health profession or the applicants;

(c) seek the advice of other associations, organizations or persons;

(d) determine what services persons practising the health profession provide to persons who require care and treatment within the scope of that health profession;

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- (e) evaluate the degree of risk to the health or safety of the public from incompetent, unethical or impaired practice of the health profession;
- (f) evaluate the degree of supervision that may be necessary or desirable for a person practising the health profession;
- (g) assess the degree of supervision that persons practising the health profession receive or are likely to receive with respect to that practice;
- (h) determine what educational programmes exist in Bermuda or elsewhere for the proper education and training of persons practising the health profession and evaluate the content of those programmes; and
- (i) do any things that the Minister considers necessary or incidental to the investigation.

(3) The Minister may, for the purposes of an investigation hold a hearing and order any person to attend the hearing to give evidence and to produce records in the possession of or under the control of the person.

(4) On application by the Minister to the Supreme Court, a person who fails to attend or to produce records as required by an order under subsection (3) is liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court.

(5) The Minister may charge to an applicant part of the costs, including the administrative costs, incurred by the Minister to conduct an investigation.

*[Section 4C inserted by 2006:34 s.5 effective 9 February 2007]*

#### **Determination by Minister**

4D (1) The Minister shall determine whether it is in the public interest to designate a health profession as a specified profession under this Act, having regard to any information obtained during the investigation and in accordance with any criteria prescribed under section 14(1)(f).

(2) If the Minister determines that a health profession should be a specified profession, he shall so designate the profession and add it to the First Schedule.

(3) A designation may include two or more professions in the same specified profession.

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(4) If an application is made under section 4A(1) and the Minister determines under subsection (1) that it is contrary to the public interest to designate the health profession as a specified profession, the Minister shall refuse the application and provide the applicant with reasons for the refusal.

*[Section 4D inserted by 2006:34 s.5 effective 9 February 2007]*

### **Establishment and constitution of Boards**

4E (1) Where the Minister designates a health profession as a specified profession under this Act —

- (a) if the number of persons lawfully practising the specified profession is less than five persons, the persons shall be regulated by the Council; and
- (b) if five or more persons are lawfully practising the profession, there shall be established for that profession a Board which shall perform the functions assigned to it under section 4F.

(2) Each Board shall consist of a Chairman appointed by the Minister and three members elected from among registered persons practising the profession for which the Board is established.

(3) Where a Board has been established under this section, it shall continue in being until such time as it is abolished by the Minister, notwithstanding that there are less than five persons in Bermuda lawfully practising the specified profession for which it has been established.

(4) The Minister may, by order, abolish a Board if there are less than five persons in Bermuda lawfully practising the specified profession for which the Board was established.

(5) The provisions contained in the Second Schedule shall have effect with respect to Boards.

*[Section 4E inserted by 2006:34 s.5 effective 9 February 2007]*

### **Functions of Boards**

4F (1) The Board of a specified profession shall recommend to the Council —

- (a) the qualifications and practical experience required for the registration of registered persons in that profession; and
- (b) requirements for the continuing education of registered persons.

(2) The Board of each specified profession shall —

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- (a) establish qualification and training requirements for the enrolment of assistants in that profession;
- (b) recommend to the Council for enrolment persons who meet the established qualification and training requirements in that profession; and
- (c) appoint examiners to conduct examinations for persons applying for enrolment as assistants in that profession.

*[Section 4F inserted by 2006:34 s.5 effective 9 February 2007]*

**Committees**

- 4G (1) The Council —
- (a) shall establish two standing committees, one to be called the Preliminary Proceedings Committee and the other the Professional Conduct Committee; and
  - (b) may establish other committees as it considers appropriate.
- (2) The membership of a committee shall be determined by the Council.
- (3) A committee established under section 4G(1)(b) may have persons on it who are not members of the Council.
- (4) The Chairman of the Council shall, after consultation with the Council, appoint a member of the Council as the Chairman for each committee.
- (5) The procedures to be observed in relation to the conduct of the business of a committee —
- (a) shall be as determined by the Council; or
  - (b) shall, if the Council has not determined any procedures in general or any procedures in relation to a particular matter, be as determined by the committee.

*[Section 4G inserted by 2006:34 s.5 effective 9 February 2007]*

**Preliminary Proceedings Committee**

- 4H (1) The Preliminary Proceedings Committee shall consist of a Chairman and two members of the Council.
- (2) The functions of the Preliminary Proceedings Committee are —
- (a) to receive and investigate, or cause to be investigated, determine and take action concerning complaints

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against any registered person or assistant, including any allegation that —

- (i) the registered person's registration or the assistant's enrolment was improperly obtained;
- (ii) the registered person or assistant is guilty of professional misconduct;
- (iii) the registered person or assistant is unfit to be registered or enrolled; or
- (iv) the registered person or assistant is unfit to practise or be enrolled by reason of conviction of an indictable offence, adverse physical or mental health or being drug or alcohol impaired in the course of performing professional functions; and

(b) to perform such other functions as may be assigned to it by the Council.

(3) Where a complaint is made under this section, the Preliminary Proceedings Committee shall investigate the complaint and determine whether, in its opinion, the complaint —

- (a) is frivolous or vexatious, is made in bad faith, is an abuse of process or for any other reason ought not to be considered by the Professional Conduct Committee;
- (b) arose from a misapprehension on the part of the complainant or a misunderstanding between the complainant and the registered person or assistant and ought to be dealt with in accordance with subsection (8); or
- (c) ought to be referred to the Professional Conduct Committee for its determination.

(4) The Preliminary Proceedings Committee may, if it considers it is necessary for the protection of the public, recommend to the Council that it make an interim order suspending the registered person from the register or the assistant from the roll, as the case may be, for such period as the Council considers appropriate.

(5) The Preliminary Proceedings Committee shall notify the registered person or assistant —

- (a) that a complaint has been made against him and forward a copy of the complaint and any accompanying documents or information to him; and
- (b) that the Committee will investigate the complaint unless that person or assistant shows cause in writing, within

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fourteen days of the date of the notification, why the matter should not be investigated.

(6) If the Preliminary Proceedings Committee determines that the complaint is frivolous or vexatious, is made in bad faith, is an abuse of process or otherwise ought not to be considered by the Professional Conduct Committee, the Preliminary Proceedings Committee shall dismiss the complaint.

(7) The Preliminary Proceedings Committee, after investigating a complaint may recommend to the Council that guidelines on future conduct be issued by the Council to all registered persons, assistants or to a specified profession concerning any of the matters coming to its attention in the course of enquiry.

(8) If the Preliminary Proceedings Committee determines that the complaint arose from a misapprehension on the part of the complainant or a misunderstanding between the parties, it may require the parties to appear before the Preliminary Proceedings Committee in order to discuss the matter with a view to resolving the misapprehension or misunderstanding.

(9) The Preliminary Proceedings Committee may immediately refer the matter to the Professional Conduct Committee if it concludes that the complaint against the registered person or assistant is sufficiently serious, or that it is appropriate for other reasons to do so.

*[Section 4H inserted by 2006:34 s.5 effective 9 February 2007]*

**Professional Conduct Committee**

4I (1) The Professional Conduct Committee shall consist of a Chairman and two members of the Council.

(2) The functions of the Professional Conduct Committee are —

- (a) to receive, investigate, or cause to be investigated, hear, determine and take action concerning complaints against any registered person or assistant that are referred to it by the Preliminary Proceedings Committee in accordance with section 4H; and
- (b) to perform such other functions as may be assigned to it by the Council.

(3) The Professional Conduct Committee may investigate the complaint based on matters alleged to have occurred —

- (a) inside or outside of Bermuda; or
- (b) at any time, whether or not at a time when the person was a registered person or an assistant.

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*[Section 4I inserted by 2006:34 s.5 effective 9 February 2007]*

### **Investigation by Professional Conduct Committee**

4J (1) The Professional Conduct Committee shall, as soon as practicable, set a date and time to hear and determine any matter referred to it under section 4H.

(2) The Professional Conduct Committee —

- (a) shall inform the person against whom the complaint has been made of the complaint, set out its nature and give the person an opportunity to be heard; and
- (b) may take evidence on oath or affirmation, administered by the Chairman.

(3) The Professional Conduct Committee —

- (a) shall inform the Council of its findings; and
- (b) may make such recommendations as it thinks fit to the Council, including a recommendation that —
  - (i) no further action be taken;
  - (ii) the Council direct the Registrar to remove a person's name from the register or roll, as the case may be, in accordance with section 7(1); or
  - (iii) the Council impose any of the disciplinary measures referred to in section 4K.

(4) Before imposing any disciplinary measure, the Council may review any documents or information submitted to it by the Professional Conduct Committee.

*[Section 4J inserted by 2006:34 s.5 effective 9 February 2007]*

### **Disciplinary powers of Council**

4K (1) In addition to the powers conferred by section 7(1), the Council may —

(a) impose one or more of the following conditions —

- (i) a condition restricting the places and times at which the registered person may provide professional services or the assistant may be employed in the provision of such services;
- (ii) a condition limiting the kind of services that the registered person may provide or the type of employment in which the assistant may be engaged;

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(iii) a condition that the registered person be supervised in the provision of professional services by a particular person or by a person of a particular class or that the assistant be supervised in the provision of such services by a registered person or a class of registered person; and

(iv) any other condition that the Council thinks fit;

(b) admonish or warn the registered person or assistant;

(c) subject to section 4L, require the registered person or assistant to pay a fine not exceeding \$2,000;

(d) suspend the registered person's registration or the assistant's enrolment in a specified profession for a period not exceeding one year; or

(e) disqualify a registered person from being registered in a specified profession or an assistant from being enrolled in a specified profession.

(2) The Council may stipulate that any condition, disqualification or suspension imposed under subsection (1) is to apply —

(a) permanently;

(b) for a specified period;

(c) until the fulfilment of specified conditions; or

(d) until a further order of the Council.

(3) The Council may stipulate that any condition, disqualification or suspension imposed under subsection (1) shall have effect at a specified future time and impose conditions as to the conduct of the registered person or assistant in relation to the provision of professional services until that time.

*[Section 4K inserted by 2006:34 s.5 effective 9 February 2007]*

#### **Administrative fines**

4L (1) Where a court finds a registered person or an assistant guilty of an offence and the circumstances of the offence form, in whole or in part, the subject matter of a complaint under this Act, the registered person or assistant shall not be liable to a fine under section 4K(1)(c) in respect of the complaint.

(2) The Council may, in relation to a fine imposed on a registered person or assistant under section 4K(1)(c) —

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- (a) fix a period within which the fine shall be paid; and
  - (b) on application by the person liable to pay the fine, extend the period within which the fine shall be paid.
- (3) A fine imposed under section 4K(1)(c) is recoverable by the Crown as a debt.
- (4) If a person fails to pay a fine imposed under section 4K(1)(c), the Council may direct the Registrar to remove the person's name from the register or roll, as the case may be.

*[Section 4L inserted by 2006:34 s.5 effective 9 February 2007]*

### **Designation of Registrar**

4M The Minister shall designate, on such terms and conditions as are necessary for the proper carrying out of the provisions of this Act, a person to be the Registrar of Allied Health Professions.

*[Section 4M inserted by 2006:34 s.5 effective 9 February 2007]*

### **Establishment and maintenance of register**

4N (1) The Registrar shall keep, in such form and manner as the Council thinks appropriate, a register to be known as the Register of Allied Health Professions, setting out the names, addresses, status, qualifications of all registered persons and such other particulars as may be prescribed.

(2) The register shall have a separate part for each specified profession.

(3) The Registrar shall —

- (a) remove from the register any entry which the Council directs the Registrar to remove;
- (b) restore to the register any entry which the Council directs the Registrar to restore;
- (c) correct in accordance with the Council's directions, any entry in the register which the Council directs the Registrar to correct; and
- (d) from time to time, make any necessary alterations in the particulars of registered persons.

(4) The register shall be open to inspection by any member of the public during office hours, and a copy of the register shall be published in the Gazette at such time and in such manner as may be prescribed.

*[Section 4N inserted by 2006:34 s.5 effective 9 February 2007]*

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**Establishment and maintenance of roll**

4O (1) The Registrar shall keep, in such form and manner as the Council considers appropriate, a list of all assistants to be known as the Roll of Allied Health Professions, setting out the names, addresses, status, qualifications of all assistants and such other particulars as may be prescribed.

(2) The roll shall have a separate part for specified profession.

(3) The Registrar shall —

(a) remove from the roll any entry which the Council directs the Registrar to remove;

(b) restore to the roll any entry which the Council directs the Registrar to restore;

(c) correct in accordance with the Council's directions, any entry in the roll which the Council directs the Registrar to correct; and

(d) make, from time to time, any necessary alterations in the particulars of assistants.

(4) The roll shall be open to inspection by any member of the public during office hours, and a copy of the roll shall be published in the Gazette at such time and in such manner as may be prescribed.

*[Section 4O inserted by 2006:34 s.5 effective 9 February 2007]*

**Application for enrolment**

4P (1) A person who seeks to be enrolled as an assistant in a specified profession in Bermuda shall apply to the appropriate authority in such form or manner as the Council may approve.

(2) An application for enrolment as an assistant shall set out the grounds on which, and the specified profession in which, the applicant seeks to be enrolled.

(3) The appropriate authority may require such evidence of identity, such verification of any matter alleged by the applicant, or such further information relating to the application, as it thinks requisite.

(4) An application under this section shall be accompanied by the prescribed fee.

(5) The appropriate authority shall recommend the applicant for enrolment as an assistant in a specified profession if the applicant satisfies the appropriate authority that—

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- (a) he holds a qualification in that profession for the time being accepted for the purposes of this Act by the appropriate authority;
- (b) he has sufficient practical experience in that profession; and
- (c) he is a fit and proper person to be enrolled in that profession.

(6) The appropriate authority shall recommend to the Council for enrolment a person who is employed as an assistant in a specified profession in Bermuda at the commencement of this Act notwithstanding that he does not hold a qualification of the nature specified in subsection (5)(a) if the appropriate authority is of the opinion that such person is a fit and proper person to be enrolled as an assistant.

(7) In determining whether a person is a fit and proper person to be enrolled, the appropriate authority may require that person to undergo such tests or examinations as it considers appropriate.

(8) For the purposes of enrolment under this Act, the appropriate authority may require an applicant to submit to such examination relating to his competence in the specified profession in which he seeks to be enrolled as the appropriate authority thinks necessary.

(9) If the appropriate authority recommends a person for enrolment, the Council shall –

- (a) cause the Registrar to enrol the person as an assistant in a specified profession in which he is recommended for enrolment,
- (b) notify the person in writing accordingly;
- (c) direct the Registrar to issue a certificate of enrolment in the prescribed form to the person; and
- (d) direct the Registrar to put a notice of the enrolment in the Gazette.

(10) If the appropriate authority is not satisfied as to the eligibility of the applicant to be enrolled in the specified profession in which he seeks enrolment, it shall refuse to enrol the applicant and shall notify him in writing of the refusal.

(11) A person who is enrolled as an assistant in a specified profession under this Act and duly issued with a certificate of enrolment is entitled to practice in the specified profession in which he is registered in Bermuda and to demand and recover any reasonable charges for services rendered by him in that capacity.

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(12) The Registrar shall publish a notice of the enrolment in the Gazette.

*[Section 4P inserted by 2006:34 s.5 effective 9 February 2007]*

**Application for registration**

5 (1) A person who seeks to practise a specified profession in Bermuda shall apply to the appropriate authority in such form or manner as the Council may approve.

(2) An application for registration shall set out the grounds on which and the specified profession in which the applicant seeks registration.

(3) The appropriate authority may require such evidence of identity, such verification of any matter alleged by the applicant, or such further information relating to the application as it thinks requisite.

(4) An application under this section shall be accompanied by the prescribed fee.

(5) The appropriate authority shall recommend the applicant to the Council for registration if the applicant satisfies the appropriate authority that —

- (a) he holds a qualification in that profession for the time being accepted for the purposes of this Act by the appropriate authority;
- (b) he has sufficient practical experience in that profession; and
- (c) he is a fit and proper person to be registered in that profession.

(6) The appropriate authority shall recommend to the Council for registration an applicant carrying on a specified profession in Bermuda at the commencement of this Act notwithstanding that he does not hold a qualification of the nature specified in subsection (5)(a) if the appropriate authority is of the opinion that such person is a fit and proper person to practise such profession.

(7) In determining whether a person is a fit and proper person to be registered, the appropriate authority may require that person to undergo such tests or examinations as it may consider appropriate.

(8) For the purposes of registration under this Act, the appropriate authority may require an applicant to submit to such examination relating to his competence to be registered in the specified profession in which he seeks registration as the Council thinks necessary.

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(9) If the appropriate authority recommends the applicant for registration, the Council shall —

- (a) cause the Registrar to register the applicant in the specified profession in which he is recommended for registration;
- (b) notify the applicant in writing accordingly;
- (c) direct the Registrar to issue to him a certificate of registration in the prescribed form; and
- (d) direct the Registrar to publish a notice of the registration in the Gazette.

(10) If the appropriate authority is not satisfied as to the eligibility of the applicant to be registered in the specified profession in which he seeks registration, it shall refuse to register the applicant and shall notify him in writing accordingly.

(11) A person who is registered in a specified profession under this Act and who has been duly issued with a certificate of registration and a valid practicing certificate is entitled to practise in the specified profession in which he is registered in Bermuda and to demand and recover any reasonable charges for services rendered by him in that capacity.

(12) The Registrar shall publish a notice of the registration in the Gazette.

*[Section 5 subsection (1) amended, and (2) substituted, by 2000:2 s.3 effective 8 March 2000; Section 5 substituted by 2006:34 s.6 effective 9 February 2007]*

### **Registration, period of validity**

5A (1) Notwithstanding section 5, registration of a person carrying on a specified profession in Bermuda shall have effect for a period of two years from the date this section comes into force or such shorter period as may be specified in a certificate of registration issued by the Council.

(2) The Council may renew the registration of a person if the person—

- (a) (i) applies for the renewal of registration, and  
(ii) pays the renewal fee,  
on or before the expiration date of his registration; and
- (b) satisfies the requirements of subsection 5(5) relating to qualifications and experience.

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(3) The Council may delete from the register the name of any person who fails to renew his registration under subsection (2) or whose application for renewal is refused.

*[Section 5A inserted by 2000:2 s.4 effective 8 March 2000; subsection (2)(b) amended by 2006:34 s.7 effective 9 February 2007]*

**Appeals to the Cabinet**

5B (1) Any person who is aggrieved by a decision to refuse registration or renewal of registration, may within 14 days after the decision is made ("the appeal period") appeal to the Cabinet against the decision by notice in writing to the Secretary to the Cabinet setting out the grounds of appeal; and the Cabinet shall decide the appeal and make such order in the appeal as seems just.

(2) When the Cabinet has decided an appeal under subsection (1), the appropriate authority shall implement the Cabinet's decision and be guided accordingly.

(3) A decision to refuse registration or to refuse to renew registration does not take effect until the expiry of the appeal period, or where an appeal is brought, until the appeal is decided or abandoned.

*[Section 5B inserted by 2000:2 s.4 effective 8 March 2000]*

**Enrolment, period of validity**

5C (1) Enrolment of an assistant shall have effect for a period of two years from the date of enrolment or such shorter period as the Council specifies in a certificate of enrolment issued by the Registrar.

(2) The Council may renew the enrolment of a person and issue a certificate of enrolment if the person —

- (a) on or before the expiration date of his registration —
  - (i) applies for the renewal of registration; and
  - (ii) pays the prescribed renewal fee;
- (b) satisfies the requirements of this Act relating to qualifications and experience; and
- (c) complies with the requirements of the continuing education programme that are applicable to him.

(3) The Council may direct the Registrar to remove from the roll the name of any person who fails to renew his enrolment under subsection (2) or whose application for renewal is refused.

*[Section 5C inserted by 2006:34 s.8 effective 9 February 2007]*

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### **Proof of registration or enrolment**

6 A certificate purporting to be under the hand of the Registrar declaring that a person named therein is, or is not, as the case may be, registered in any register or roll maintained under this Act, and in the case of a person who is so registered or enrolled specifying the date of registration or enrolment, shall be admissible in any proceedings as prima facie evidence of the facts stated therein.

*[Section 6 amended by 2000:2 s.5 effective 8 March 2000 and by 2006:34 s.9 effective 9 February 2007]*

### **Inactive status and provisional registration**

6A (1) Where a registered person intends —

- (a) to be absent from Bermuda,
- (b) to practise outside Bermuda, or
- (c) to refrain from practising in Bermuda,

for a period of more than 12 months, he may apply to the Council to have his registration designated as inactive and shall return his certificate to the Registrar; and the Council shall direct the Registrar to enter a notation on the register indicating inactive status.

(2) A person whose registration is designated as inactive and who seeks to return to practise in Bermuda may apply to the Council for reissue of his certificate and the Council shall —

- (a) if satisfied that he continues to meet the qualifications and experience required for registration under section 5(5), request the Registrar to reissue his certificate and remove the notation of inactive status; or
- (b) if not satisfied that he continues to meet the qualifications and experience required for registration under section 5(5), request the Registrar to register him for a provisional term, subject to a condition that he completes any specified continuing education, and to enter a notation on the register indicating provisional status.

*[Section 6A inserted by 2006:34 s.10 effective 9 February 2007]*

### **Removal of names from register or roll**

7 (1) Where a person whose name appears on a register or a roll is convicted by any court in Bermuda or elsewhere of a criminal offence or is found unfit or guilty, pursuant to an allegation set out in section 4H(2), the Council may direct that the person's name be removed from the register or roll, as the case may be.

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(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 or roll 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.

*[Section 7 title and subsections (3) and (4) amended, and subsection (1) substituted, by 2006:34 s.11 effective 9 February 2007]*

#### **Registration or enrolment after removal of name from register or roll**

8 A person whose name is removed from a register or a roll in pursuance of a direction of the Council under section 7 shall not be entitled to be registered in that register or roll again except in pursuance of a direction in that behalf given by the Council on the application of that person; and a direction under section 7 for the removal of a person's name from the register or the roll may prohibit an application under this section by that person until the expiration of such period from the date of the direction as may be specified in the direction.

*[Section 8 and title amended by 2006:34 s.12 effective 9 February 2007]*

#### **Power of Council to obtain information**

9 (1) For the purpose of an inquiry under section 7(2), the Council shall have power, by order under the hand of the Chairman, to require any person to attend before the Council, and to give evidence on oath or otherwise, and to require the production of documents, so as to elicit all such information as the Council may consider necessary.

(2) Any person who —

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- (a) fails without reasonable excuse to attend before the Council in compliance with an order under subsection (1);
- (b) when in attendance before the Council refuses to make an oath, or refuses to produce a document, or refuses to give evidence, in compliance with such an order as aforesaid,

commits an offence:

Punishment on summary conviction: a fine of \$1,000:

Provided that the person shall not be punished for refusing to answer any question or to produce any document which he could not be required to answer or produce before a court of Bermuda, or for failing or refusing to answer any question or produce any document which is not relevant to the matters in issue.

*[Section 9 subsection (1)(b) substituted, and (2) amended, by 2000:2 s.6 effective 8 March 2000; subsection (1) substituted, title and (2) amended, by 2006:34 s.13 effective 9 February 2007]*

### **Statement as to conduct**

10 (1) It shall be the duty of the appropriate authority to prepare, and from time to time revise, in consultation with the Council, a statement as to the kind of conduct which the appropriate authority considers to be proper conduct or professional misconduct, and the appropriate authority shall send by post to each registered member of a specified profession at his address on the register, a copy of the statement as for the time being revised.

(2) In the exercise of its functions under section 7 the Council shall be guided by any relevant statement prepared under this section but it may hold a person guilty of professional misconduct notwithstanding that such conduct is not prohibited by the statement; but the Council shall not hold a person guilty of professional misconduct if such conduct is authorised by the statement.

*[Section 10 title and subsections (1) and (2) amended by 2006:34 s.14 effective 9 February 2007]*

### **Use of titles**

11 (1) A person who is registered shall be entitled to use the word "registered" to describe the nature of his professional practice, where that practice is the practice in respect of which he is registered.

(2) Any person —

- (a) who uses, either alone or in conjunction with other words, the words "Government Registered", or words of like purport to describe the nature of his practice, being

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that of a specified profession, and is not registered in respect of that profession; or

- (b) who takes or uses any name, title, addition or description falsely implying, or who otherwise pretends, that his name is on a register established under this Act,

commits an offence:

Punishment on summary conviction: a fine of \$1,000 and in the case of a second or subsequent conviction, a fine of \$2,000.

*[Section 11 amended by 2000:2 s.7 effective 8 March 2000]*

**Penalty for false representations, etc., to obtain registration**

12 If a person procures or attempts to procure the entry of any name on a register established under this Act by wilfully making or producing, or causing to be made or produced, either verbally or in writing, any declaration, certificate or representation which he knows to be false he commits an offence:

Punishment on summary conviction: a fine of \$2,000.

*[Section 12 amended by 2000:2 s.8 effective 8 March 2000]*

**Prohibitions regarding practice of specified profession**

12A (1) If a regulation under this Act limits the services that may be performed by a registered person in the course of practice of a specified profession, the registered person shall limit his practice accordingly.

(2) A person who contravenes subsection (1) commits an offence:

Punishment on summary conviction: a fine of \$2,000.

*[Section 12A inserted by 2006:34 s.15 effective 9 February 2007]*

**Unlawful practice**

13 (1) No person shall practise a specified profession (by whatever name called) or practise as an assistant in a specified profession in Bermuda, unless —

- (a) he is registered or enrolled in respect of that profession or authorized to practise that profession under section 13A; or

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(b) his practice is incidental to the practice of some other profession lawfully carried on by him in accordance with the laws regulating the practice of that other profession.

(2) Any person who contravenes this section commits an offence:

Punishment on summary conviction: a fine of \$1,000 and in the case of a second or subsequent conviction, a fine of \$2,000.

(3) Nothing in this Act or the regulations prohibits a person from

(a) practising a profession, discipline or other occupation in accordance with this or another Act; or

(b) providing or giving first aid or temporary assistance to another person in case of emergency if that aid or assistance is given without gain or reward or hope of gain or reward.

*[Section 13 subsections (1) and (2) amended by 2000:2 s.9 effective 8 March 2000; subsection (1) amended, and (3) substituted, by 2006:34 s.16 effective 9 February 2007]*

### **Locum tenens**

13A (1) Notwithstanding section 13, the Council may authorize any person who is registered to practise a specified profession outside Bermuda to practise that profession as a locum tenens in Bermuda for a limited period not exceeding three months and subject to such conditions as the Council may impose.

(2) A person authorized under subsection (1) shall, for the period specified in the authorization, have the powers and privileges of a registered practitioner.

(3) A person authorized under subsection (1) shall not practise a specified profession in Bermuda otherwise than in accordance with that authorization.

*[Section 13A inserted by 2000:2 s.10 effective 8 March 2000]*

### **Regulations and rules**

14 (1) The Minister may make regulations for the better administration of this Act and, without derogation from the generality of the foregoing, such regulations may —

(a) prescribe anything which, under this Act, is required or permitted to be prescribed;

(b) *[Deleted]*;

(c) prescribe the procedure to be followed by the Council;

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- (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) prescribe the criteria to be applied under section 4D(1) in determining whether it would be in the public interest to designate a health profession as a specified profession;
- (g) in relation to a specified profession, prescribe the following —
  - (i) the name of the Board;
  - (ii) one or more titles to be used exclusively by registered persons;
  - (iii) services that may be performed by registered persons and assistants;
  - (iv) limits or conditions on the services that may be performed by registered persons or assistants;
  - (v) services that may be performed only by registered persons; and
  - (vi) services that may be performed under the supervision of a registered person by an assistant.

(2) The power of the Chief Justice to make rules under section 62 of the Supreme Court Act 1905 [*title 8 item 1*] shall extend to the making of rules regulating the practice and procedure to be followed on an appeal to the Supreme Court under section 7(3), and the fees payable in connection therewith.

(3) The negative resolution procedure shall apply to regulations made under this section.

*[Section 14 subsection (1)(b) deleted by 2000:2 s.11 effective 8 March 2000; subsections (1)(c) and (3) amended, and (1)(f)-(g) inserted, by 2006:34 s.17 effective 9 February 2007]*

#### **Fees**

14A Fees for an application for designation of a health profession as a specified profession, registration or renewal of registration, or enrolment or renewal of enrolment as an assistant in relation to a specified profession, shall be as prescribed under the Government Fees Act 1965.

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*[Section 14A inserted by 2000:2 s.12 effective 8 March 2000; amended by 2006:34 s.18 effective 9 February 2007]*

### **Annual reports**

14B The Council shall submit to the Minister, not later than fourteen days after the end of each year, an annual report concerning registration and enrolment, disciplinary proceedings and such other activities of the Council, as the Minister may prescribe.

*[Section 14B inserted by 2006:34 s.19 effective 9 February 2007]*

### **Amendment of First Schedule**

15 (1) The Minister may, after consultation with the Council, amend the First Schedule by —

- (a) varying the definition or style of any profession; or
- (b) adding any profession thereto or removing any profession therefrom.

(2) The negative resolution procedure shall apply to orders made under this section.

### **Consequential amendments**

16 *[omitted]*

### **Transitional**

17 *[omitted]*

### **Commencement**

18 *[omitted]*

## **FIRST SCHEDULE (sections 1(1) & 15(1)) SPECIFIED PROFESSIONS**

"addictions counsellor" means a person skilled in the identification, assessment and treatment of alcohol and drug abuse;

"audiologist" means a person skilled in the identification, assessment and treatment of hearing disorders;

"chiroprapist" means a person skilled in the treatment of foot conditions locally and conservatively and the palliative relief of chronic foot anomalies and resultant lesions;

"diagnostic imaging technologist" means a person who is skilled in the production of diagnostic images for medical

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interpretation through the use of one or more of the following diagnostic imaging techniques —

- (a) radiologic technology;
- (b) nuclear medicine;
- (c) computed tomography;
- (d) ultrasonography;
- (e) mammography;
- (f) magnetic resonance imaging;
- (g) bone densitometry;
- (h) echosonography;

“dietician” means a person qualified in nutrition and dietetics and skilled in the science of nutrition, in the feeding and education of persons for the promotion of good health and the prevention and management of disease;

"emergency medical technician" means a person who has completed a full course in emergency medical care approved by the Council;

"medical laboratory technician" means a person skilled in medical laboratory techniques;

"occupational therapist" means a person skilled in the assessment and treatment of individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process, through the use of purposeful activity and adaptive equipment and technology in order to maximize independence, prevent disability and maintain health;

“physiotherapist/physical therapist” means a person skilled in the art of identifying human movement and functional disorders, promoting and stimulating healing and the return of physical function by use of electro-physical agents, exercise prescriptions, specialized manual techniques and other physical means in the rehabilitation of individuals who have impairments, functional limitations, disabilities or changes in physical function and health status resulting from injury, disease or other causes;

"specialist diagnostic imaging technologist" means a person skilled in the use of diagnostic imaging techniques and x-ray technology and either computed tomography or magnetic resonance imaging;

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"speech, language pathologist" means a person skilled in the identification, assessment, diagnosis, prescription and treatment of communication and swallowing disorders.

*[First Schedule repealed and replaced by 2000:2 s.13 effective 8 March 2000; "emergency medical technician" inserted by BR 37/2003 effective 1 June 2003; Schedule retitled and amended by 2006:34 s.20 effective 9 February 2007]*

### **SECOND SCHEDULE**

#### **PART I**

##### **Provisions Common to the Council and the Boards**

1 A member of the Council or a Board shall be appointed or elected, as the case may be, for a period of one year beginning on such day as may be determined by the Minister.

2 A member of the Council or a Board may resign his office any time by notice in writing given to the Minister.

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

- (a) is unable through mental or physical incapacity or absence from Bermuda to perform the functions his office;
- (b) has failed, without adequate cause, to attend three successive meetings of the Council or Board;
- (c) has been sentenced to imprisonment for the commission of a criminal offence;
- (d) has had his name removed from the register under section 7.

4 (1) A person appointed or elected to fill the place of a member of the Council or a Board 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 or of a Board 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.

5 A person who has held office as a member of the Council or a Board shall be eligible for re-appointment or re-election, as the case may be.

6 The Council or a Board may act notwithstanding any vacancy in its membership, and no act of the Council or a Board shall be deemed to

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be invalid only by reason of a defect in the appointment or election of a member thereof.

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

#### PART II

##### Special Provisions Relating to the Council

1 There shall be not less than two Council meetings in each calendar year.

#### PART III

##### Special Provisions Relating to the Boards

1 Boards shall meet as often as may be necessary for them to dispatch their business under this Act.

2 A minute shall be made of every decision of a Board in such form as the Minister may direct.

3 (1) Where any matter is before a Board under section 5, a member of the Board 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, who need not be a practitioner of a specified profession, to be a member of the Board 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 Board for such purpose.

4 The election of members to a Board shall be conducted in such manner as the Minister may approve and any dispute as to who is, or who is not, entitled to vote at such an election shall be determined by the Minister.

5 In any matter before a Board the Chairman or person acting as Chairman shall have a deliberative as well as a casting vote.

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

*[Schedule 2 Part I paras 1 and 3, Part III para 3 amended by 2006:34 s.21 effective 9 February 2007]*

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[Amended by:

1977 : 35

2000 : 2

BR 37/2003

2006: 34]