



BERMUDA

DENTAL PRACTITIONERS ACT 1950

1950 : 15

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SCHEDULE 1

Dental
Professions Complaints Committee

SCHEDULE 2

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[preamble and words of enactment omitted]

PART 1 PRELIMINARY

Interpretation

1 In this Act—

“ancillary committee” means an ancillary committee appointed under section 12C(6);

“appropriate cover” has the meaning given in section 6A(3);

“appropriate fee” means the fee referred to in section 27B;

“Bermuda Dental Association” means the association known as the Bermuda Dental Association formed in Bermuda to represent registered dental practitioners;

“Bermuda Dental Hygiene Association” means the association known as the Bermuda Dental Hygiene Association formed in Bermuda to represent dental hygienists;

“Bermuda Health Council” means the Bermuda Health Council established under section 3 of the Bermuda Health Council Act 2004;

“the Board” means the Bermuda Dental Board established under this Act;

“Code” means the code of conduct provided for in section 12B;

“Committee” means the Dental Professions Complaints Committee established under section 12C(1);

“continuing dental education programme” has the meaning given in section 7A(3);

“dental assistant”, “dental hygienist” and “dental technician” have the meanings respectively assigned to those expressions in sections 21A, 22 and 23;

“dentistry” means the diagnosis, treatment, operating on or prescription for any disease, pain or injury of, or the regulation of any deformity or physical condition of, the human teeth, and the overlying or underlying tissue thereof; and includes the supply, fitting, manufacture or insertion of any artificial appliance, plate or denture for the human teeth or jaws and the administration of appropriate drugs and anaesthetics in connection with any of the matters aforesaid;

“drug or alcohol impaired” means—

- (a) the loss, loss of use, or derangement of any body part, organ system or organ function caused by the use of any drug or alcohol; or

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(b) the alteration of a person's capacity to meet personal, social and occupational demands in relation to professional practice caused by the use of any drug or alcohol;

"exempted dental practitioner" means a dental officer of the armed forces, a locum tenens and a visiting dental practitioner within the meaning of section 19;

"Government Dental Officer" means a dental officer in the service of the Department of Health;

"indemnity arrangement" has the meaning given in section 6A(2);

"locum tenens" has the meaning assigned to it in section 21;

"the Minister" means the Minister charged with responsibility for Health;

"prescribed" means prescribed by regulations made under this Act;

"professional misconduct" includes—

- (a) incompetence or negligence in the practice of dentistry;
- (b) improper or unethical conduct in relation to professional practice; and
- (c) a contravention of or failure to comply with—
 - (i) a provision of this Act; or
 - (ii) an applicable statement of conduct issued under section 12B;

"the register" means the register of dental practitioner maintained by the Registrar under section 6 and, in reference to a registered person, includes the register of dental assistants, dental hygienists or dental technicians maintained by the Board in pursuance of sections 21A, 22 and 23 respectively;

"registered dental practitioner" means a dental practitioner registered under this Act.

"registered person" means a registered dental practitioner, a dental assistant, a dental hygienist or a dental technician;

"Registrar" means the person for whose appointment section 5B provides;

"specified procedure" has the meaning given in section 7AA(1).

[Section 1 amended by 2009:35 s.2 effective 15 July 2009; Section 1 definitions "appropriate cover", "indemnity arrangement" and "specified procedure" inserted by 2019 : 08 s. 2 effective 29 March 2019; Section 1 definition "the register" amended, and definitions "ancillary committee", "appropriate fee", "Bermuda Health Council", "Code", "continuing dental education programme" and "Registrar" inserted by 2020 : 47 s. 12 effective 11 December 2020]

PART 2

PRIVILEGES OF DENTAL PRACTITIONERS

Unqualified persons; offences

2 (1) Without prejudice to any other provision of this Act, a person who is not a registered dental practitioner or an exempted dental practitioner—

- (a) shall not take or use any name, title or description (whether by initials or otherwise) stating or implying that he is a registered or exempted dental practitioner;
- (b) shall not—
 - (i) practise dentistry in Bermuda whether or not such practice is for gain; or
 - (ii) hold himself out as practising dentistry in Bermuda:

Provided that nothing in this section shall be construed so as to prevent—

- (i) the extraction of teeth by a medical practitioner, or the performance of any surgical operation by a medical practitioner, being an operation which involves dental surgery; or
- (ii) the performance in any public dental service of minor dental work by any person under the personal supervision of a registered dental practitioner and in accordance with conditions approved by the Registrar, after consultation with the Board; or
- (iia) the performance by a dental assistant of any work as such in conformity with section 21A; or
- (iii) the performance by a dental hygienist of any work as such in conformity with section 22; or
- (iv) the performance by a dental technician of any work as such in conformity with section 23; or
- (v) the administration of an anaesthetic by a registered medical practitioner in connection with dentistry.

(2) A person, whether or not a registered dental practitioner or an exempted dental practitioner, shall not take or use, or affix to or use in connection with his premises, any name, title or description (whether by initials or otherwise) reasonably calculated to suggest that he possesses any professional status or qualification as a dental practitioner other than a professional status or qualification which he in fact possesses, and which, in the case of a registered dental practitioner, is indicated by particulars entered in the register in respect of him.

(3) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act:

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Punishment on summary conviction: imprisonment for 6 months or a fine of \$10,000 or both such imprisonment and fine for a first offence, and to a fine of \$20,000 or imprisonment for one year or to both for a second or subsequent offence.

Provided that it shall be a good defence, in respect of proceedings brought under subsection (1)(b), to prove that the practice complained of took place in an emergency.

[Section 2 amended by 2009 : 35 s. 3 effective 15 July 2009; Section 2 amended by 2020 : 47 s. 14 effective 11 December 2020]

Entitlement to practise dentistry

3 A registered dental practitioner or an exempted dental practitioner shall, subject as hereinafter in this Act provided, be entitled to practise dentistry in Bermuda, and to recover in due course of law in respect of such practice any fees and expenses, and any charges in respect of dentures, drugs or appliances arising therefrom.

Bar to recovery of fees without proof of entitlement to practise dentistry

4 A person who is not a registered dental practitioner or an exempted dental practitioner shall not be entitled to recover in any court any fees, expenses or charges in respect of his practice of dentistry in Bermuda, unless he proves that at the time of the practice in question he was a registered dental practitioner or an exempted dental practitioner entitled to perform such practice:

Provided that nothing in this section shall apply in relation to any such dental surgery or dental work as is referred to in the proviso to section 2(1).

PART 3

BERMUDA DENTAL BOARD

Bermuda Dental Board established

5 (1) For the purposes of this Act there shall be established a board of persons (hereinafter in this Act referred to as “the Board”) who shall have the powers and perform the duties conferred or imposed upon them by or under this Act.

(1A) The general function of the Board shall be to ensure high standards of professional competence and conduct in the practice of dentistry in Bermuda.

(2) *[Repealed by 2020 : 47 s. 16]*

(3) The Board shall consist of seven members, of whom—

- (a) three shall be registered dental practitioners appointed by the Minister;
- (b) one shall be a barrister and attorney, duly admitted and enrolled as such in Bermuda, appointed by the Minister;
- (c) one shall be appointed by the Minister from a list of at least three registered dental practitioners in good standing who are nominated by the Bermuda Dental Association;

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- (d) one shall be appointed by the Minister from a list of at least three registered dental hygienists in good standing who are nominated by the Bermuda Dental Hygiene Association; and
- (e) one shall be the Senior Dental Officer who shall, in addition to being a member of the Board, be the executive officer of the Board *ex officio* (the "Executive Officer").

(3A) Appointment as a member under paragraphs (a), (b), (c) or (d) of subsection (3) shall be for a term not exceeding three years and a person who is, or has been, a member is eligible for reappointment.

(3B) The Minister may appoint one or more persons to act as an alternate to a member appointed under paragraphs (a), (b), (c) or (d) of subsection (3).

(3C) An alternate to a member shall be appointed in accordance with the requirements for the appointment of the member, and his term of appointment shall, if not sooner terminated, end at the expiration of the term of the member.

(4) There shall be a Chairman of the Board, who shall, subject as hereinafter provided, be appointed annually by the Minister from among the members of the Board to hold office until the thirty-first day of December of the year for which he was appointed, and who shall be eligible for re-appointment:

Provided that if at any time a person appointed to be Chairman ceases to be a member of the Board, or for any other reason ceases to hold office as such, the Minister shall, as soon as may be, appoint from among the members of the Board another person to be Chairman in his stead.

(5) If at any meeting of the Board the Chairman is absent, the members present shall elect one of their number to act as chairman at that meeting.

(6) Four members of the Board shall form a quorum at any meeting.

(7) Every question or matter to be determined by the Board at any meeting shall be decided by a majority of the members present at the meeting.

(7A) The Senior Dental Officer may attend a meeting of the Board and may assist the Board in its deliberations on any matter, but shall not be counted for the purpose of constituting a quorum and shall have no vote.

(8) Without prejudice to anything in section 8 (which section relates to the scale of fees payable to members of the Board who conduct an examination under this Act), fees shall be paid to members of the Board in accordance with the Government Authorities (Fees) Act 1971 [*title 14 item 6*].

(9) Subject to this Act, the Board may regulate its own proceedings.

[Section 5 amended by 2009:35 s.4 effective 15 July 2009; Section 5 subsection (3B) amended by 2019 : 30 s. 2 effective 5 August 2019; Section 5 subsection (2) repealed and subsection (7A) inserted by 2020 : 47 s. 16 effective 11 December 2020]

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Protection from personal liability

5A A member of the Board or any committee thereof shall not be personally liable for damages for anything done or omitted to be done in the discharge or purported discharge of the Board's functions under this Act, unless the act or omission was done or made in bad faith.

[Section 5A inserted by 2020 : 47 s. 17 effective 11 December 2020]

PART 4

REGISTER AND REGISTRATION

Registrar

5B (1) For the purposes of this Act, there shall be a Registrar for the Board to be known as the Registrar of Dental Practitioners.

(2) The Chief Executive Officer of the Bermuda Health Council shall be the Registrar of Dental Practitioners.

(3) The Registrar shall perform the functions conferred on him by this Act or by any other statutory provision.

[Section 5B inserted by 2020 : 47 s. 19 effective 11 December 2020]

Delegation by Registrar

5C (1) The Registrar may, by instrument in writing, delegate to an officer or an agent of the Registrar any function or power conferred on the Registrar.

(2) The Registrar may perform such of his functions as he thinks fit through an officer or agent of the Registrar and in the performance of those functions the officer or agent shall be subject to the directions of the Registrar.

(3) A delegation under subsection (1) may—

(a) be made subject to such conditions, qualifications and exceptions as the Registrar may specify in the instrument of delegation;

(b) be revoked or varied by a subsequent instrument.

(4) The Registrar may perform any function or exercise any power notwithstanding that he has delegated it to some other person.

(5) The Statutory Instruments Act 1977 does not apply in respect of an instrument under this section.

[Section 5C inserted by 2020 : 47 s. 19 effective 11 December 2020]

Registrar to keep register

6 (1) The Registrar, shall cause to be kept and maintained a register of dental practitioners ("the register") containing the names of those dental practitioners entitled to

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be registered under this Act, and such other particulars respecting those persons as this Act may require or as may from time to time be prescribed.

(2) The Registrar, shall cause to be published in the Gazette, as soon as may be after the first day of January in each year, a list of the names entered in the register on that day; and a copy of the Gazette containing the most recent list so published shall be prima facie evidence in all courts that the persons whose names are included therein are registered dental practitioners; and the absence of the name of any person from such list shall be prima facie evidence that that person is not a registered dental practitioner:

Provided that—

- (a) in the case of any person whose name does not appear in any list, a certificate purporting to be signed by the Registrar, of the entry of the name of such person in the register and of the date of such entry shall be prima facie evidence—
 - (i) that he is a registered dental practitioner; and
 - (ii) of the date upon which he became a registered dental practitioner;
- (b) in the case of any person whose name does appear in any such list, a certificate as aforesaid of the striking off or removal of the name of that person from the register or of his suspension from practice under section 16 and of the date of the striking off or removal or suspension, shall be prima facie evidence—
 - (i) that he is not a registered dental practitioner or has been suspended from practice; and
 - (ii) of the date upon which he ceased by virtue of the striking off or removal to be a registered dental practitioner, or, as the case may be, was suspended from practice.

(3) The Registrar—

- (a) shall cause to be entered in the register the name of any person—
 - (i) who is found by the Board to be a duly eligible applicant under section 7 or who, having been found by the Board to be eligible for examination under section 7, passes an examination held in pursuance of section 8; or
 - (ii) whose name, having been struck off or removed from the register, is to be restored to the register in pursuance of section 17; and
- (b) shall cause to be made in the register such alterations and additions relating to the particulars of registered dental practitioners as may from time to time become necessary; and
- (c) shall cause to be removed from the register the name of any registered dental practitioner—
 - (i) who has died; or

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- (ii) whose name is to be removed from the register in pursuance of section 11(1); or
- (iii) who has, under section 15, applied to have his name removed from the register; and
- (d) shall cause to be struck off the register the name of any registered dental practitioner—
 - (i) whose name is to be struck off the register under section 14; or
 - (ii) whose name is ordered to be summarily struck off the register under section 27; and
- (e) shall cause to be entered in the register as may from time to time become necessary, a note of the commencement or termination of the suspension from practice of a registered dental practitioner under sections 16 and 17 respectively; and
- (f) may, without prejudice to anything in the foregoing provisions of this section, cause such notices to be published in the Gazette as appear to him expedient in the circumstances.

[Section 6 amended by 2009 : 35 s. 5 effective 15 July 2009; Section 6 amended by 2020 : 47 s. 20 effective 11 December 2020]

Indemnity arrangements

6A (1) A registered dental practitioner who is practising dentistry in Bermuda shall have in force in relation to him an indemnity arrangement which provides appropriate cover for practising as such.

- (2) For the purposes of this section, an “indemnity arrangement” shall comprise—
 - (a) a policy of insurance;
 - (b) an arrangement made for the purposes of indemnifying a person; or
 - (c) a combination of the two.

(3) For the purposes of this section, “appropriate cover”, in relation to practice as a dental practitioner, means cover against liabilities that may be incurred in practising as such which is appropriate, having regard to the nature and extent of the risks of practising as such.

[Section 6A inserted by 2019 : 08 s. 3 effective 29 March 2019]

Application for registration

7 (1) A person who applies to be registered under this Act (hereinafter in this Act referred to as an “applicant for registration”) shall apply in the prescribed form to the Registrar, and shall forward with the application—

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- (a) such documents relating to professional qualifications, experience and character in support of the application as may from time to time be prescribed;
- (aa) if he wishes to include a specified procedure in his registration, documents showing that he meets the standards and requirements in respect of the specified procedure;
- (ab) documents showing that there is in relation to him, or will be in force by the time he begins to practise in Bermuda, an indemnity arrangement which provides appropriate cover; and
- (b) the appropriate fee;

Provided that any person who is or is appointed to be a Government Dental Officer shall not be required to forward any such fee.

(2) The Registrar, shall cause the application and the accompanying documents (if any) to be transmitted to the Board, who shall, as soon as conveniently may be, meet to consider the application.

(3) Where, as a result of their consideration of the application, and after making such inquiries as appear to them desirable in the circumstances, the Board is satisfied that the applicant for registration is—

- (a) a duly eligible applicant, the Board shall inform the Registrar and the Registrar shall—
 - (i) cause the applicant's name and professional qualifications to be entered in the register together with any specialty in which he is registered to practise, and such other particulars as may from time to time be prescribed; and
 - (ii) complete and forward to the applicant a certificate of registration in the prescribed form; or
- (b) eligible for examination under section 8, appoint examiners to determine the competence of the applicant to practise dentistry or a specialty, as the case may be.

(4) Where an applicant for registration does not appear to the Board to be a duly eligible applicant or eligible for examination, the Board shall inform the Registrar, of their decision and the reasons therefor; and the Registrar, shall in turn cause the applicant to be informed of the decision of the Board and of the reasons therefor.

(5) A person aggrieved by any decision of the Board under subsection (4) may appeal to the Supreme Court against the decision in the manner provided in section 25.

(6) In this section the expression "eligible for examination" means an applicant for registration—

- (a) who has satisfactorily completed such course of study and examination as the Board consider sufficient to be prima facie evidence of his competence efficiently to practise dentistry and, in the case of an applicant for

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registration as a specialist, the specialty with reference to which he has applied for registration as a specialist; and

- (b) who is of good character; and
- (c) who has not been examined under this Act within the period of the last preceding six months.

(7) In this section the expression “duly eligible applicant” means an applicant for registration—

- (a) who has satisfactorily completed such course of study and examination, certified by a local, national, regional or international examination board or agency that is approved by the Board, as the Board consider sufficient evidence of his competence, knowledge and skill efficiently to practise—
 - (i) dentistry; or
 - (ii) in the case of an applicant for registration as a specialist, the specialty with reference to which he has applied for registration as a specialist;
- (aa) who, if he wishes to include a specified procedure in his registration, meets the standards and requirements in respect of the specified procedure;
- (ab) who the Board is satisfied has in force in relation to him an indemnity arrangement that provides appropriate cover; and
- (b) who is of good character.

Provided that any person who is or is appointed to be a Government Dental Officer shall not be required to forward any such fee.

(8) The Board shall, by Notice in the Gazette, publish its approval of the examination boards or agencies referred to in subsection (7)(a).

(9) A Notice under subsection (8) is not a statutory instrument and shall not be subject to the Statutory Instruments Act 1977.

[Section 7 amended by 2009 : 35 s.6 effective 15 July 2009; Section 7 amended by 2019 : 8 s. 4 effective 29 March 2019; Section 7 amended by 2020 : 47 s. 21 effective 11 December 2020]

Registration in respect of specified procedures required

7AA (1) After consultation with registered dental practitioners, the Board may specify a procedure (a “specified procedure”) that, after the day referred to in subsection (2)(b), shall not be carried out by any registered dental practitioner unless the practitioner meets the standards and requirements of the Board in respect of that procedure, if the Board believes that such standards and requirements are necessary to safeguard the health of patients.

(2) In respect of each specified procedure—

- (a) the standards and requirements in respect of the specified procedure; and
- (b) the day after which no registered dental practitioner shall carry out the specified procedure unless registered to do so,

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shall be set out in the code of conduct under section 12B.

(3) No registered dental practitioner shall carry out a specified procedure after the day referred to in subsection (2)(b) unless he is registered to carry out the specified procedure.

[Section 7AA inserted by 2019 : 08 s. 5 effective 29 March 2019; Section 7AA subsection (2)(b) amended by 2020 : 47 s. 22 effective 11 December 2020]

Period of validity of registration

7AB (1) Unless sooner cancelled and subject to subsections (2) and (3), the registration of a dental practitioner shall have effect for a period of two years from the date of his registration or such shorter period as may be specified in the certificate of registration issued to him.

(2) Subsection (3) applies where a person is registered as a dental practitioner on a date that falls between the start, and end, of the applicable registration cycle for dental practitioners.

(3) Where this subsection applies, the registration of the dental practitioner may, if the Board so determines appropriate, have effect for such longer period than two years but not exceeding three years as may be specified in the certificate of registration issued to him.

[Section 7AB inserted by 2020 : 47 s. 22 effective 11 December 2020]

Re-registration

7A (1) Every person whose name is entered in the register shall apply in the prescribed form for re-registration every two years after—

- (a) in the case of a person whose re-registration is validated by the Health Professionals (Dental and Optometric) Re-registration Waiver and Validation Act 2015, the date of such re-registration; or
- (b) in the case of a person other than a person referred to in paragraph (a), the date on which his name is first entered in the register.

(2) Subject to subsection (3), the Board shall re-register a person under subsection (1) if the Board is satisfied that the person—

- (a) continues to meet the requirements of this Act and Regulations made under this Act relating to qualifications, professional conduct and experience;
- (aa) in the case of a registered dental practitioner, continues to have in force in relation to him an indemnity arrangement that provides appropriate cover;
- (b) has, within the two years preceding the date of the application for re-registration, complied with those requirements of the continuing dental education programme that are applicable to him;

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- (c) has made the application before the expiration of the two-year period referred to in subsection (1); and
- (d) has paid the appropriate fee.

(3) For the purposes of subsection (2), the “continuing dental education programme” means any programme of training or the development of knowledge that the Board may, from time to time, by Notice in the Gazette, approve.

(4) A Notice under subsection (3) is not a statutory instrument and shall not be subject to the Statutory Instruments Act 1977.

[Section 7A inserted by 2009:35 s.7 effective 15 July 2009; subsections (1)(a) and (b) repealed and substituted and subsection (2)(a) amended by 2015 : 49 s. 3 effective 23 December 2015; Section 7A subsection (2)(aa) inserted by 2019 : 08 s. 6 effective 29 March 2019; Section 7A subsection (2)(d) amended by 2020 : 47 s. 23 effective 11 December 2020]

Qualifying examination

8 (1) Where—

- (a) any applicant for registration appears to the Board to be eligible for examination by virtue of section 7; or
- (b) any appeal under section 25 by an applicant for registration against any decision of the Board that the applicant is not eligible for examination under section 7 is allowed by the Supreme Court,

the Board shall as soon as may be, appoint three members of the Board (hereinafter in this Act referred to as “an examining committee”) to conduct an examination of the applicant.

(2) An examining committee shall consist of three registered dental practitioners and shall, as soon as may be after appointment, conduct an examination of the applicant (hereinafter in this Act referred to as “a qualifying examination”).

(3) A qualifying examination shall be set and conducted in such manner as to ensure, as far as possible, that any person passing the examination is possessed of the competence, knowledge and skill requisite for the efficient practice of dentistry.

(4) An examining committee, subject as hereinafter provided, and having due regard to subsection (3), shall have power—

- (a) to determine the nature and scope of a qualifying examination; and
- (b) to regulate the conduct of a qualifying examination; and
- (c) to determine whether or not an applicant for registration who takes a qualifying examination shall be considered to have passed or failed in that examination:

Provided that no attempt shall be made by an examining committee or by the Board to impose on any applicant for registration any obligation to adopt or refrain from adopting the practice of any particular theory of dentistry, as a test or condition of examining him under this section or of granting him a certificate of registration under the next following section.

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(5) Every member of an examining committee meeting to examine an applicant for registration under this section shall be entitled to receive out of the Consolidated Fund the fee specified in subsection (5A) in respect of that qualifying examination, to be paid on the certificate of the Chairman of the Board.

(5A) The fee referred to in subsection (5) shall be an amount equal to the fee payable to a member of the Board, under section 2 of the Government Authorities (Fees) Act 1971, in respect of each day on which he attends a meeting of the Board.

(6) No appeal shall lie to the Supreme Court under this Act against any determination of the Board arising out of their powers under subsection (4).

[Section 8 amended by 2009:35 s.8 effective 15 July 2009]

Examination result

- 9 (1) Where an applicant for registration passes a qualifying examination—
- (a) the examining committee shall inform the Board, who shall transmit a notice of the result of the examination to the Registrar; and
 - (b) the Registrar—
 - (i) shall cause the applicant's name and professional qualifications to be entered in the register together with any specialty in which he is registered to practise, and such other particulars as may from time to time be prescribed; and
 - (ii) shall complete and forward to the applicant a certificate of registration in the prescribed form.

(2) Where an applicant for registration fails in a qualifying examination, the Board shall inform the Registrar, and the applicant accordingly.

[Section 9 amended by 2009 : 35 s. 9 effective 15 July 2009; Section 9 amended by 2020 : 47 s. 24 effective 11 December 2020]

10 *[Repealed by 2009:35 s.10 effective 15 July 2009]*

Government Dental Officers

11 (1) Notwithstanding anything in the foregoing provisions of this Act, any person appointed to be a Government Dental Officer shall not be required to pass a qualifying examination; and if any such person is found by the Board to be a duly eligible applicant for registration for the purposes of section 7, or eligible for examination for the purposes of section 7, the Board shall inform the Registrar, accordingly and the Registrar, shall cause his name and qualifications to be entered in the register and shall cause a certificate of registration to be forwarded to him as though he had passed a qualifying examination; and upon the entry of his name in the register such Government Dental Officer shall for the purposes of this or any other Act be deemed to be a registered dental practitioner:

Provided that where a person who is a Government Dental Officer ceases to be a Government Dental Officer then—

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- (a) unless he has already passed a qualifying examination; or
- (ba) unless he has already been found by the Board to be a duly eligible applicant for registration; or
- (b) unless immediately before 11 December 1950 his name was entered in any dental register maintained under the Dental Registration Act 1911, his name shall be removed from the register.

(2) A Government Dental Officer shall not engage in general private practice as a dental practitioner:

Provided that where a private medical or dental practitioner consults a Government Dental Officer with respect to a patient of the private medical or dental practitioner, the Government Dental Officer may engage in private practice to the extent involved in the consultation.

(3) Nothing in the foregoing provisions of this section shall be construed so as to prevent a Government Dental Officer from practising dentistry upon any person who is entitled, by virtue of any Act of the Parliament of the United Kingdom relating to health services, or of any regulation, order or rule made thereunder, to receive without charge dental treatment whilst in Bermuda.

[Section 11 amended by 2009:35 s.11 effective 15 July 2009; Section 11 amended by 2020 : 47 s. 24 effective 11 December 2020]

Registration of additional qualification

12 (1) In any case—

- (a) where a registered dental practitioner has, since the date of his registration under this Act, been granted any degree, diploma or other qualification in dentistry; and
- (b) where the degree, diploma or other qualification appears to the Board to deserve recognition in the register,

then in any such case the Registrar, upon application made by the registered dental practitioner in the prescribed form, shall without charge cause the particulars of the new qualification to be entered in the register.

(2) The Board may, on application under section 7, register a registered dental practitioner to practise any of the following specialties—

- (a) Dental Public Health;
- (b) Endodontics;
- (c) Oral and Maxillofacial Surgery;
- (d) Oral and Maxillofacial Radiology;
- (e) Oral and Maxillofacial Pathology;
- (f) Orthodontics;

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- (g) Pedodontics;
- (h) Periodontics;
- (i) Prosthodontics; and
- (j) such other specialties as may be prescribed.

(3) The provisions of this Act relating to registration and re-registration of a dental practitioner shall apply, mutatis mutandis, to the registration and re-registration of a specialty.

[Section 12 amended by 2009:35 s.12 effective 15 July 2009; Section 12 amended by 2020 : 47 s. 24 effective 11 December 2020]

PART 5

INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS

Mandatory reporting of impaired registered persons

12A (1) Every person, other than a person mentioned in subsection (2), who reasonably believes that a registered person is drug or alcohol impaired while performing his professional functions shall immediately report this belief to the Committee outlining the circumstances or information upon which the reasonable belief is based.

(2) A health care professional who reasonably believes that a registered person is drug or alcohol impaired while performing his professional functions shall immediately report this belief in writing to the Committee for their attention.

(3) In this section, "health care professional" means a person acting in the course of his professional or official duties in any hospital or institution administering health or dental care to persons, including—

- (a) a registered person;
- (b) a nurse;
- (c) a medical practitioner;
- (d) a pharmacist;
- (e) the Chief of Staff of a hospital; and
- (f) any other person who performs professional or official duties.

(4) Subsections (1) and (2) apply whether or not the information is confidential or privileged, except that nothing in this section affects or abrogates the legal professional privilege that attaches to a communication between an attorney-at-law and his client.

(5) No civil action lies against a person by reason of that person reporting information pursuant to subsection (1) or (2) unless the reporting of that information is done falsely, maliciously or with intent to deceive.

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(6) No person shall reveal or be compelled to reveal the identity of a person who has reported information to the Committee pursuant to subsection (1) or (2).

(7) Every person who—

- (a) contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$1,000;
- (b) contravenes subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding \$2,000; or
- (c) falsely, maliciously or deceptively reports information indicating that he reasonably believes that a registered person is drug or alcohol impaired while performing his professional functions, commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.

[Section 12A inserted by 2009:35 s.13 effective 15 July 2009]

Code of conduct

12B (1) It shall be the duty of the Board to prepare, and from time to time revise, a code in relation to the kind of conduct which the Board considers to be proper conduct or professional misconduct, and the Board shall send to each registered person at his address on the register, a copy of the code as for the time being revised.

(1A) For the avoidance of doubt, the code of conduct may contain guides to ethical conduct, standards of practice or scopes of practice.

(2) A different code of conduct may be prepared under this section for registered dental practitioners, dental technicians, dental hygienists and dental assistants respectively.

(3) In the exercise of its functions the Board shall be guided by the applicable code of conduct prepared under this section but it may hold a registered person guilty of professional misconduct notwithstanding that such conduct is not prohibited by the code.

(4) The Board shall not hold a person guilty of professional misconduct if such conduct is expressly authorised by the applicable code of conduct.

[Section 12B inserted by 2009:35 s.13 effective 15 July 2009; Section 12B subsection (1A) inserted by 2019 : 08 s. 7 effective 29 March 2019; Section 12B amended by 2020 : 47 s. 26 effective 11 December 2020]

Dental Professions Complaints Committee

12C (1) There shall be established, in accordance with the Schedule, a committee to be known as the “Dental Professions Complaints Committee”.

(2) The functions of the Committee are—

- (a) to receive and investigate, or cause to be investigated, reports and complaints against any registered person, including any allegation that—
 - (i) the person’s registration was improperly obtained;

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- (ii) the person is guilty of professional misconduct;
 - (iii) the person is unfit to practise a specialty or to be registered;
 - (iv) the person is unfit to practise by reason of a conviction on an indictable offence, adverse physical or mental health, or being drug or alcohol impaired in the course of performing professional functions;
 - (b) to cause there to be an inquiry into, under section 13, such complaints or reports; and
 - (c) to perform such other functions as may be prescribed.
- (3) The Committee may investigate any 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.
- (4) A complaint referred to in subsection (2)(a)—
- (a) shall be in writing;
 - (b) shall be made—
 - (i) by the complainant;
 - (ii) if the complainant is a child or is physically or mentally unable to make the complaint, by the parent or guardian, friend or a person acting on behalf of the complainant;
 - (iii) if the conduct complained of relates to a person who is dead, by his executor or personal representative;
 - (c) shall be addressed to the Committee;
 - (d) shall set out the matters alleged to constitute grounds for disciplinary action to be taken against the registered person who is the subject of the complaint; and
 - (e) may be required by the Committee to be in a form approved by the Committee.
- (5) The Schedule has effect as to the appointment and proceedings of the Committee and other matters relating to the Committee.
- (6) If the Registrar determines that the Committee is unable to deal with all of the complaints before it, whether due to volume, time constraints, conflict of interest or otherwise, he may constitute one or more ancillary committees made up of alternate members (appointed under paragraph 4 of the Schedule) to deal with such complaints as he may specify.

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(7) This section, section 12D and the Schedule shall apply to an ancillary committee constituted under subsection (6) as they apply to the Committee, and any decision of an ancillary committee shall be taken to be a decision of the Committee.

[Section 12C inserted by 2009:35 s. 13 effective 15 July 2009; Section 12C subsections (6) and (7) inserted by 2019 : 30 s. 3 effective 5 August 2019; Section 12C amended by 2020 : 47 s. 27 effective 11 December 2020]

Investigations by Committee

12D (1) Where a complaint is made under section 12C(4), or a report is received under section 12A(1) or (2), the Committee shall investigate the complaint or report and determine whether, in their opinion, the complaint or report—

- (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 Board; or
- (b) ought to be placed before the Board for its determination.

(2) The Committee—

- (a) shall notify the registered person that a complaint or report has been made against him, and of the matters alleged therein;
- (b) in the case of a complaint under section 12C(4), shall forward a copy of the complaint and any accompanying documents or information to the registered person;
- (c) shall request that the registered person show cause in writing, within a specified time after the notice is given, explaining why the matter should not be placed before the Board for determination; and
- (d) may take evidence from any witness on oath or affirmation administered by the Chairman.

(3) If the Committee is satisfied that a complaint under section 12C(4) arose from a misapprehension on the part of the complainant or a misunderstanding between the parties, they may, before proceeding further with the investigation of the complaint, require the parties to appear before them in order to discuss the matter with a view to clarifying the misapprehension or misunderstanding.

(4) In making a determination under subsection (1), if the Committee concludes that the complaint or report is frivolous or vexatious, is made in bad faith, is an abuse of process or otherwise ought not to be considered by the Committee, shall dismiss the complaint or report and, in the case of a complaint, notify the complainant, together with reasons for such dismissal.

(5) If the Committee concludes that the allegations or evidence against the registered person are sufficiently serious or it is appropriate to refer the matter to the Board they shall, as soon as practicable, place the matter before the Board for determination.

[Section 12D inserted by 2009:35 s. 13 effective 15 July 2009]

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Professional conduct

13 (1) If, pursuant to an investigation under section 12D, the Committee place the matter before the Board for determination, the Board shall as soon as may be inquire into the matter and in respect of any such inquiry the succeeding provisions of this section shall have effect—

- (a) the Board may take evidence on oath, and for that purpose the chairman of the Board may administer an oath;
- (b) the Board shall afford the registered person and the Committee every facility—
 - (i) to appear before the Board at all stages of the inquiry;
 - (ii) to be represented by counsel;
 - (iii) to call or cross-examine witnesses; and
 - (iv) generally to make a full defence or explanation in the matter;
- (c) the Board shall, in the case of a registered dental practitioner, inform the Registrar, of their findings and the Registrar, shall inform the registered dental practitioner accordingly;
- (ca) the Board shall, in the case of a registered person other than a registered dental practitioner, inform the registered person accordingly; and
- (d) the registered person shall be entitled to appeal against any such finding to the Supreme Court in the manner provided in section 25.

(2) Any proceedings in connection with the holding of an inquiry by the Board in pursuance of this section shall, for the purposes of the provisions of the Criminal Code [*title 8 item 31*] relating to perjury, be deemed to be judicial proceedings.

[Section 13 amended by 2009:35 s.14 effective 15 July 2009; Section 13 amended by 2020 : 47 s. 28 effective 11 December 2020]

Striking off

14 (1) Where a registered person—

- (a) is convicted either in Bermuda or elsewhere of any offence and as a result of that conviction is sentenced to a term of imprisonment without the option of a fine; or
- (b) is found by the Board to be guilty of professional misconduct; or
- (c) is ordered to have his name struck off any dental register maintained and kept in any place outside Bermuda,

then in any such case—

- (i) it shall be the duty of the registered person to inform the Board in the circumstances set out in paragraphs (a) or (c); and

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- (ii) it shall be the duty of the Board, if they are satisfied as to the truth of any of the matters specified in paragraphs (a), (b) and (c), and after giving the registered person every opportunity to make such explanation as he may wish to do, to decide as soon as may be whether the name of the person should be struck off the register:

Provided that the name of a registered person shall not be struck off the register on account of his adopting or refraining from adopting the practice of any particular theory of dentistry.

(2) Where the Board decide that the name of a registered dental practitioner should be struck off the register they shall so inform the Registrar; and the Registrar, shall cause the registered dental practitioner to be informed by written notice accordingly.

(2A) Where the Board decide that the name of a registered person other than a registered dental practitioner should be struck off the register they shall cause the registered person to be informed by written notice accordingly.

(3) A registered person shall be entitled to appeal against any such decision of the Board to the Supreme Court in the manner provided in section 25.

(4) The Registrar, in any case where the Board decide that the name of a registered person should be struck off the register, shall, subject to any directions by the Court, on the tenth day after he has given notice to the registered person in accordance with subsection (2) or (2A), as the case may be, strike the name of the registered person off the register and—

- (a) inform the person by written notice under subsection (2) or (2A) that his name has been struck off the register;
- (b) by the same or another notice given as aforesaid require the person to return his certificate of registration or licence, as the case may be, within seven days after receiving the notice; and
- (c) cause a notification of the striking off to be made in the Gazette.

(4A) A notification under subsection (4)(c) is not a statutory instrument and shall not be subject to the Statutory Instruments Act 1977.

(5) Any registered person who contravenes or fails to comply with subsection (1)(i) commits an offence against this Act:

Punishment on summary conviction: a fine of \$10,000.

(6) Any person who fails to return his certificate of registration to the Registrar or his licence to the Board, in accordance with any requirement duly given under subsection (4)(ii) commits an offence against this Act:

Punishment on summary conviction: a fine of \$2,500.

[Section 14 amended by 2009:35 s.15 effective 15 July 2009; Section 14 amended by 2020 : 47 s. 29 effective 11 December 2020]

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Voluntary removal

15 Any registered person may apply to the Board, as the case may be, to have his name removed from the register; and upon receiving any such application the Board, as the case may be, shall cause his name to be removed accordingly.

[Section 15 amended by 2009 : 35 s. 16 effective 15 July 2009; Section 15 amended by 2020 : 47 s. 30 effective 11 December 2020]

Suspension

- 16 (1) Where it appears to the Board that a registered person—
- (a) is inefficient or negligent in carrying out his professional functions; or
 - (b) has become incapable of properly carrying out his professional functions by reason of old age or mental or bodily infirmity; or
 - (c) is addicted to alcohol or drugs to an extent which makes him unfit to carry out his professional functions or was drug or alcohol impaired while carrying out those functions; or
 - (d) has ceased for a period of not less than two years to participate actively in the practice, theory or administration of dentistry; or
 - (e) has contravened the duty imposed on him by section 13A(6) of the Bermuda Hospitals Board Act 1970 (fees);

then in any of the foregoing cases the Board, after holding an inquiry into the matter, may, if they find the matter proved, decide to suspend the registered person from the practice of dentistry for such period as they think fit, or, where the circumstances so require, for an indefinite period.

- (2) The provisions of sections 13 and 14—
- (a) which relate to inquiries held by the Board; and
 - (b) which relate to notification of the findings and decisions of the Board; and
 - (c) which relate to the right of appeal against such findings or decisions of the Board,

under the said sections 13 and 14, shall apply as nearly as may be to inquiries held by the Board under this section and to connected matters arising therefrom:

Provided that where a registered person is suspended from practice under this section his name shall not be struck off the register and he shall not be required to return his certificate of registration or licence, as the case may be.

(3) A person suspended from practice under this section shall until the termination of the suspension under the next following section, be deemed for the purposes of this Act, and for the purposes of any other Act, not to be a registered person.

[Section 16 amended by 1996:17 effective 8 July 1996; and by 2009:35 s.17 effective 15 July 2009; Section 16 amended by 2020 : 47 s. 31 effective 11 December 2020]

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Restoration of name

17 (1) Where—

- (a) the name of a person has been struck off the register under section 14 or summarily struck off under section 27; or
- (b) the name of a person has been removed from the register under section 15; or
- (c) a person has been suspended from practice under section 16,

the person, at any time after the expiration of three months from the date of the striking off, removal or suspension, as the case may be, shall be entitled to apply from time to time to the Board for his name to be restored to the register, or as the case may be, for the suspension to be terminated.

(2) Upon any such application as aforesaid the Board, having regard, as in the circumstances may be material—

- (a) to the character of the person;
- (b) to his conduct subsequent to his name being struck off or subsequent to his suspension;
- (c) to the other circumstances of the case,

may decide that his name be restored to the register or, as the case may be, that the suspension be terminated.

(3) The Board, in connection with a decision made under subsection (2), may declare it to be a condition of the restoration of the name of a person to the register, or of the termination of his suspension from practice, that the person shall pass a fresh qualifying examination as though he were an applicant for registration.

(4) The Board shall in the case of a dental practitioner inform the Registrar, of their decision under subsection (2) ; and the Registrar, shall take such steps—

- (a) to inform the dental practitioner accordingly;
- (b) to make such entries, deletions or otherwise in the register; and
- (c) to forward a certificate of registration to the dental practitioner,

as in the circumstances may be necessary to give effect to the decision.

(4A) The Board shall, in the case of a person other than a dental practitioner, as in the circumstances may be necessary to give effect to the decision—

- (a) inform the person accordingly;
- (b) make entries, deletions or otherwise in the register; and
- (c) forward a licence to practise to the registered person.

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(5) Where the Board do not decide that the name of a person should be restored to the register or, as the case may be, his suspension from practice should be terminated the person may appeal to the Supreme Court in the manner provided in section 25.

[Section 17 amended by 2009:35 s.18 effective 15 July 2009; Section 17 subsection (4) amended by 2020 : 47 s. 32 effective 11 December 2020]

Additional disciplinary powers of Board

17A In addition to the powers conferred by sections 14 and 16, after holding an inquiry into the matter, the Board may, if it finds the matter proved and depending on the nature and seriousness of the offence—

- (a) impose one or more of the following conditions on the person's registration—
 - (i) a condition restricting the places and times at which the person may provide dental treatment;
 - (ii) a condition limiting the kind of dental treatment that the person may provide;
 - (iii) a condition requiring that the person is supervised in the provision of dental treatment, by a particular person or by another person of a particular class;
 - (iv) any other conditions that the Board thinks fit;
- (b) admonish, warn or censure the person;
- (c) suspend the person's registration in a specified specialty;
- (d) disqualify the person from being registered in a specified specialty;
- (e) stipulate that any condition, suspension, disqualification or prohibition imposed under this Act is to apply—
 - (i) permanently;
 - (ii) for a specified period;
 - (iii) until the fulfilment of specified conditions; or
 - (iv) until a further determination is made by the Board; and
- (f) stipulate that a determination relating to a person is to have effect at a specified future time and impose conditions as to the conduct of the person or the person's business until that time.

[Section 17A inserted by 2009:35 s.19 effective 15 July 2009; Section 17A amended by 2020 : 47 s. 33 effective 11 December 2020]

PART 6

EXEMPTED DENTAL PRACTITIONERS

Armed forces dental officers

18 (1) A dental officer of the armed forces, during any period while he is in Bermuda, shall by virtue of his appointment, and subject as hereinafter in this section provided, have the powers and privileges conferred by this or any other Act upon a registered dental practitioner, and shall for the purposes of this Act be an exempted dental practitioner:

Provided that for the purposes of sections 2, 3 and 4 a dental officer of the armed forces shall not, (except to the extent to which he may be specifically permitted to do otherwise by virtue of subsection (2), and except in case of emergency) be entitled to practise dentistry—

- (a) except upon or in relation to a person who is a member of the armed forces; or
- (b) except upon or in relation to a person who is employed directly by the armed forces; or
- (c) except upon or in relation to a person who belongs to the family of any member of the armed forces; or
- (d) where the dental officer is a dental officer of the naval, military or air forces of Her Majesty, except upon or in relation to the following persons (in addition to those persons mentioned in the foregoing paragraphs of this proviso), that is to say—
 - (i) a person who is a member of the Bermuda Regiment Junior Leaders or any other cadet corps maintained in Bermuda, where such person is in annual camp or is otherwise undergoing actual military training;
 - (ii) a person who is employed by the Navy, Army and Air Force Institutes;
 - (iii) a person who is eligible for payment of a pension in respect of any disablement occurring as a result of service in the naval, military or air forces of Her Majesty, where such person is undergoing dental treatment with a view to the amelioration of the condition which gives rise to his eligibility for the payment of the pension in question; and
 - (iv) a person who is entitled by virtue of any Act of the Parliament of the United Kingdom relating to health services, or of any regulation, order or rule made thereunder, to receive without charge dental treatment in Bermuda.

(2) Notwithstanding anything in subsection (1), where it appears to the Governor, after consultation with the Board, to be in the public interest to do so, the Governor may by permission in writing authorize a dental officer of the armed forces to practise dentistry otherwise than as mentioned in the proviso to subsection (1) but subject to such conditions or limitations as the Governor thinks fit to impose; and the practice of dentistry by a dental

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officer of the armed forces in accordance with the terms of any such permission shall not be a contravention of this section.

(3) In the exercise of his powers under subsection (2) the Governor shall act in his discretion.

(4) In this section—

- (a) the expression “the armed forces” means any of the naval, military or air forces of Her Majesty or of the United States of America;
- (b) the expression “dental officer”, in relation to any of the armed forces, means a dental officer holding a commission therein.

[Section 18 subsection (1)(d) amended by 2015 : 54 s. 11 effective 12 June 2017]

Visiting dental practitioners

19 (1) Notwithstanding anything in the foregoing provisions of this Act, the Board, subject to this section, may authorize for special reasons a dental practitioner (hereinafter in this Act referred to as a “visiting dental practitioner”) to practise dentistry in Bermuda for a limited period and subject to such conditions and restrictions as the Board may think fit to impose; and, subject to the terms of the authorization and to this section, any such visiting dental practitioner shall have the powers and privileges conferred by this or any other Act upon a registered dental practitioner, and shall for the purposes of this Act be an exempted dental practitioner.

(2) The following provisions shall have effect with respect to the granting to a visiting dental practitioner of an authorization to practise dentistry, that is to say—

- (a) the Board shall satisfy themselves—
 - (i) as to the need for the authorization; and
 - (ii) as to the professional qualifications and general suitability of the visiting dental practitioner to satisfy that need;
- (b) the authorization shall be in the prescribed form;
- (c) the authorization shall not be expressed to have effect for a period longer than three months from the date of its being granted, subject to a power of the Board to extend the period by a further period of six weeks;
- (d) the authorization shall specify the nature of the practice which is permitted;
- (e) the authorization shall specify such other special conditions or restrictions connected with the practice of dentistry in Bermuda by the visiting dental practitioner as the Board may think fit to impose.

(3) A visiting dental practitioner shall not sign any certificate required under any Act to be signed by a dental practitioner; and any such certificate purporting to be signed by a visiting dental practitioner shall be of no effect.

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(4) An authorization granted under this section shall be revocable by the Board at any time during its period of validity; and upon its revocation the authorization shall cease to be of any effect.

(5) Any person (whether or not a dental practitioner) aggrieved by a refusal of the Board to grant an authorization under this section or by the revocation by the Board of any such authorization, and any visiting dental practitioner aggrieved by any term contained in any such authorization, may appeal against such refusal, revocation or term, as the case may be, to the Supreme Court in the manner provided in section 25.

[Section 19 amended by 2009:35 s.20 effective 15 July 2009]

Unauthorized practice by section 18, 19 or 21 exempted practitioner

20 Any exempted dental practitioner who practises dentistry in Bermuda otherwise than in accordance with section 18, 19 or 21, as the case may be, commits an offence against this Act:

Punishment on summary conviction: a fine of \$10,000.

[Section 20 amended by 2009:35 s.21 effective 15 July 2009]

Locum tenens

21 (1) Notwithstanding anything in the foregoing provisions of this Act, where it appears to the Board that any registered dental practitioner is, or will be, absent from his practice and that it is desirable that another person should undertake his duties as a dental practitioner for the period during which the registered dental practitioner is so absent then the Board may, subject to this section, authorize a qualified person (hereinafter in this Act referred to as a "locum tenens") to practise dentistry in Bermuda for the purpose of discharging those duties; and subject to the terms of the authorization and to this section, any such locum tenens shall have the powers and privileges conferred by this or any other Act upon a registered dental practitioner and shall, for the purposes of this Act, be an exempted dental practitioner.

(2) The following provisions shall have effect with respect to the granting to a locum tenens of an authorization to practise dentistry, that is to say—

- (a) the Board shall satisfy themselves—
 - (i) as to the need for the authorization; and
 - (ii) as to the professional qualifications and general suitability of the locum tenens to satisfy that need;
- (b) the authorization shall be in the prescribed form,
- (c) the authorization shall not be expressed to have effect for a period longer than three months from the date of its being granted, subject to a power of the Board to extend the period by a further period of six weeks;
- (d) the authorization shall specify the nature and extent of the practice which is permitted;

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- (e) the authorization shall specify such other special conditions or restrictions connected with the practice of dentistry in Bermuda by the locum tenens as the Board may think fit to impose.

(3) An authorization granted under this section shall be revocable by the Board at any time during its period of validity; and upon its revocation the authorization shall cease to be of any effect.

(4) Any person aggrieved by a refusal of the Board to grant an authorization under this section or by the revocation by the Board of any such authorization and any locum tenens aggrieved by any term contained in any such authorization may appeal against such refusal, revocation or term, as the case may be, to the Supreme Court in the manner provided in section 25.

(5) Nothing in this section shall abridge or derogate from the Bermuda Immigration and Protection Act 1956 [title 5 item 16].

[Section 21 amended by 2009:35 s.22 effective 15 July 2009]

Dental assistants

21A (1) In this section “dental assistant” means a person who is registered and licensed by the Board, in pursuance of any regulations made under this Act, to carry out such preliminary or ancillary processes of dental or oral hygiene or minor treatment in connection with dentistry as may be prescribed.

(2) Without prejudice to anything in the foregoing provisions of this Act, a registered dental practitioner may employ a dental assistant as his assistant.

(3) A dental assistant shall be entitled to practise dentistry to the extent allowed by regulations made under this Act, and subject to any requirements and conditions prescribed or imposed by such regulations.

(4) A dental assistant’s entitlement to practise dentistry, referred to in subsection (3), shall be confined to—

- (a) practise upon or in relation to a person who is a patient of the registered dental practitioner who employs the dental assistant; and
 - (b) practise under the direct supervision of that registered dental practitioner.
- (5) The Board may, by Notice in the Gazette—
- (a) establish training qualifications or course qualifications, or both, for the registration of dental assistants;
 - (b) establish training requirements or course requirements, or both, for the renewal of registration by dental assistants;
 - (c) approve certification by certain local, national, regional or international examinations boards or agencies of qualifications or requirements referred to in paragraphs (a) and (b) respectively; and

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- (d) limit every registered dental practitioner to employing no more than a specified number of dental assistants.

(6) A Notice under subsection (5) is not a statutory instrument and shall not be subject to the Statutory Instruments Act 1977.

[Section 21A inserted by 2009:35 s.23 effective 15 July 2009]

Dental hygienists

22 (1) Without prejudice to anything in the foregoing provisions of this Act, a registered dental practitioner may employ a dental hygienist as his assistant; and a dental hygienist shall be entitled to practice dentistry to the extent allowed, and subject to any requirements and conditions prescribed or imposed, by regulations made under this Act:

Provided that any such practice shall be confined—

- (a) to practise upon or in relation to a person who is a patient of the registered dental practitioner who employs the dental hygienist; and
- (b) to practise under the effective supervision of that registered dental practitioner.

(2) In this section “dental hygienist” means person who is registered and licensed by the Board, in pursuance of any regulations made under this Act, to carry out such preliminary or ancillary processes of dental or oral hygiene or minor treatment in connection with dentistry as may be prescribed.

(3) The Board may, by Notice in the Gazette—

- (a) establish training qualifications or course qualifications, or both, for the registration of dental hygienists;
- (b) establish training requirements or course requirements, or both, for the renewal of registration by dental hygienists;
- (c) approve certification by certain local, national, regional or international examinations boards or agencies of qualifications or requirements referred to in paragraphs (a) and (b) respectively; and
- (d) limit every registered dental practitioner to employing no more than a specified number of dental hygienists.

(4) A Notice under subsection (3) is not a statutory instrument and shall not be subject to the Statutory Instruments Act 1977.

[Section 22 amended by 2009:35 s.24 effective 15 July 2009]

Dental technicians

23 (1) In this section, “dental technician” means a person who is registered and licensed by the Board, in pursuance of any regulations made under this Act, to practise as a dental technician.

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(2) Without prejudice to anything in the foregoing provisions of this Act, a dental technician shall, as respects his practice as a dental technician, be permitted—

- (a) upon prescription from a registered dental practitioner, but not otherwise, to manufacture or supply any artificial appliance, plate, denture or other device designed to be worn in the mouth or applied or fitted to the teeth; and
- (b) in accordance with the instructions or prescription of a registered dental practitioner, but not otherwise, to make, work upon, repair or alter any artificial appliance, plate, denture or other device, or any impression or model, which has been delivered to him by such registered dental practitioner for return to him upon completion of the work in accordance with such instructions or prescription.

(3) The Board may, by Notice in the Gazette—

- (a) establish training qualifications or course qualifications, or both, for the registration of dental technicians;
- (b) establish training requirements or course requirements, or both, for the renewal of registration by dental technicians; and
- (c) approve certification by certain local, national, regional or international examinations boards or agencies of qualifications or requirements referred to in paragraphs (a) and (b) respectively.

(4) A Notice under subsection (3) is not a statutory instrument and shall not be subject to the Statutory Instruments Act 1977.

[Section 23 amended by 2009:35 s.25 effective 15 July 2009]

Board to supervise dental technicians

24 (1) The Board shall have the general supervision of dental technicians, and for this purpose a member of the Board and any person duly authorized by the Board shall have the power—

- (a) at all reasonable times, to enter the premises of a dental technician;
- (b) to inspect any work upon which he may then be engaged and the prescription relative thereto; and
- (c) to require from him such information relating to his work which to the Board may seem necessary.

(2) A person who obstructs any member of the Board or duly authorized person in the exercise of his powers under subsection (1) or fails to answer any question lawfully put to him commits an offence against this Act:

Punishment on summary conviction: imprisonment for 6 months or a fine of \$10,000 or both such imprisonment and fine.

[Section 24 amended by 2009:35 s.26 effective 15 July 2009]

PART 7
MISCELLANEOUS

Appeals

25 (1) Where a person is aggrieved by any decision of the Board in respect of which an appeal is allowed under this Act, he may, within 28 days of receiving any notice communicating that decision to him, appeal to the Supreme Court, and the court shall determine any such appeal, and may make such order as appears to the court just; and the Board (insofar as regards their duties under this Act) shall govern themselves accordingly.

(2) On an appeal under this section, the Supreme Court may make such order in the matter as it thinks proper, including an order as to the costs of the appeal.

(3) An order of the Supreme Court under subsection (2) is final.

(4) The practice and procedure to be followed in relation to an appeal under this section are as prescribed by rules of court.

(5) The Board may appear as respondent on such appeal and, whether they appear at the hearing of the appeal or not, they shall be deemed to be a party to the appeal for the purpose of enabling directions to be given as to the costs or expenses of the appeal.

[Section 25 amended by 2009:35 s.27 effective 15 July 2009; Section 25 amended by 2020 : 47 s. 35 effective 11 December 2020]

False statements

26 Any person who, in connection with any application or other matter falling to be performed under this Act—

- (a) makes any statement knowing or having reason to believe it to be false in a material particular; or
- (b) produces any certificate, diploma or other document knowing or having reason to believe the same to be false,

without prejudice to anything in the Criminal Code [*title 8 item 31*], commits an offence against this Act:

Punishment on summary conviction: imprisonment for 6 months or a fine of \$10,000 or both such imprisonment and fine.

Punishment on conviction on indictment: imprisonment for one year or a fine of \$20,000 or both such imprisonment and fine.

[Section 26 amended by 2009:35 s.28 effective 15 July 2009]

Striking off on conviction under section 26

27 Where any person is convicted of an offence under section 26 then, if his name has already been entered in the register, it may, at the discretion of the Minister, be summarily struck off the register.

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Annual report

27A The Board and the Committee shall each, at such time as the Minister may determine after the end of each calendar year, submit a report to the Minister on their activities.

[Section 27A inserted by 2009:35 s.29 effective 15 July 2009; Section 27A amended by 2020 : 47 s. 36 effective 11 December 2020]

Fees

27B (1) The appropriate fees shall be payable to the Bermuda Health Council.

(2) A person applying to register as a dental practitioner shall at the time of filing of the application for registration in respect of that application pay to the Bermuda Health Council the appropriate fee.

(3) A person applying for re-registration shall within every two years after the date when the person's name is first entered in the register, or such longer period as may be applicable pursuant to section 7AB(3), pay to the Bermuda Health Council the appropriate fee.

(4) In this section, "appropriate fee" means the fee set forth in Schedule 2.

(5) Schedule 2 shall have effect as to fees that are payable under this Act.

[Section 27B inserted by 2020 : 47 s. 37 effective 11 December 2020]

Amendment of Schedule 2

27C (1) The Minister may by order amend Schedule 2 to vary any fee specified therein or to add or revoke fees.

(2) An order made by the Minister under subsection (1) shall be subject to the affirmative resolution procedure.

[Section 27C inserted by 2020 : 47 s. 38 effective 11 December 2020]

Minister may make regulations

28 (1) The Minister may make regulations for implementing and giving effect to this Act, and, without prejudice to the generality of the foregoing provisions, such regulations may provide—

- (a) for prescribing the forms, notices and other documents to be used in connection with this Act;
- (b) for specifying the manner in which notices shall or may be served;
- (c) for prescribing documents required to be forwarded with applications for registration under this Act;
- (d) for prescribing professional qualifications required for dental assistants, dental hygienists or dental technicians, for the examination, licensing and registration by the Board of persons applying to practise as dental assistants, dental hygienists or dental technicians, for restricting within

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due limits the practice of dental assistants, dental hygienists or dental technicians, and for preventing unlicensed persons from engaging in such practice;

- (da) for prescribing powers that may be exercised, or procedures to be followed, in disciplinary inquiries by the Board;
- (db) for prescribing powers that may be exercised, or procedures to be followed, in investigations by the Committee;
- (dc) for the periodic re-registration and relicensing of dental assistants, dental hygienists and dental technicians; and
- (e) for prescribing any other matter or thing which by or under this Act may be or is to be prescribed.

(2) Regulations made in pursuance of subsection (1) may provide for the punishment, on summary conviction, of persons guilty of offences against the regulations so, however, that any such punishment shall not exceed imprisonment for 6 months or a fine of \$5,000, or both such imprisonment and fine, in respect of any offence.

(3) Regulations made as aforesaid shall, before coming into operation, be published in the Gazette.

(4) The Minister may in like manner and subject to the like conditions make or vary any regulations made under this section.

(5) The Minister, in making, revoking or varying any regulations as aforesaid, shall have regard to any representations made by the Board in that behalf.

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

[Section 28 amended by 2009:35 s.30 effective 15 July 2009; Section 28 subsection (1)(da) amended by 2020 : 47 s. 39 effective 11 December 2020]

References to dental practitioners in other Acts

29 Any reference in any other Act to a dental practitioner or to a registered dental practitioner shall, unless the context otherwise requires, be construed as a reference to a dental practitioner who is by virtue of this Act a registered or exempted dental practitioner.

Transitional

30 *[omitted]*

Commencement

31 *[omitted]*

SCHEDULE 1

(section 12C)

DENTAL

PROFESSIONS COMPLAINTS COMMITTEE

- 1 The Committee shall consist of three members, of whom—
 - (a) one shall be appointed by the Minister from a list of at least three registered dental practitioners in good standing who are nominated by the Bermuda Dental Association;
 - (b) one shall be appointed by the Minister from a list of at least three registered dental hygienists in good standing who are nominated by the Bermuda Dental Hygiene Association; and
 - (c) one shall be a barrister and attorney, duly admitted and enrolled as such in Bermuda, appointed by the Minister.
- 2 A person who is a member of the Board shall not be appointed as a member of the Committee.
- 3 Appointment as a member under paragraph 1 shall be for a term not exceeding three years and a person who is, or has been, a member is eligible for reappointment.
- 4 The Minister may appoint one or more persons to act as an alternate to a member appointed under paragraph 1.
- 5 An alternate to a member shall be appointed in accordance with the requirements for the appointment of the member, and his term of appointment shall, if not sooner terminated, end at the expiration of the term of the member.
- 6 There shall be a Chairman of the Committee who shall, subject as hereinafter provided, be appointed annually by the Minister from among the members of the Committee to hold office until the thirty-first day of December of the year for which he was appointed, and who shall be eligible for re-appointment.
- 7 If at any time a person appointed to be the Chairman ceases to be a member of the Committee, or for any other reason ceases to hold office as such, the Minister shall, as soon as may be, appoint from among the members of the Committee another person to be Chairman in his stead.
- 8 If at any meeting of the Committee the Chairman is absent, the members present shall elect one of their number to act as Chairman at the meeting.
- 9 Three members of the Committee shall form a quorum at any meeting.
- 10 Every question or matter to be determined by the Committee at any meeting shall be decided by a majority of the members present at the meeting but, in the event of an equality of votes, the Chairman shall have the casting vote.

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11 Fees shall be paid to members of the Committee in accordance with the Government Authorities (Fees) Act 1971.

12 The validity of any act or proceedings of the Committee shall not be affected by any vacancy among the members of the Committee or by any defect in the appointment of a member of the Committee.

13 Subject to this Act, the Committee may regulate its own proceedings.

[Schedule inserted by 2009 : 35 s. 31 effective 15 July 2009; Schedule amended by 2019 : 30 s. 4 effective 5 August 2019; Schedule amended by 2020 : 47 s. 40 effective 11 December 2020]

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SCHEDULE 2

(section 27B)

FEEES

(1)	Applying for registration as a dental practitioner under section 7	\$520
(2)	Applying for re-registration as a dental practitioner under section 7A	\$345
(3)	Applying for authorization—	
	(a) for a visiting dental practitioner under section 19	\$75
	(b) for a locum tenens under section 21	\$75
(4)	Applying for registration as a dental hygienist or dental technician under section 7	\$205
(5)	Applying for re-registration as a dental hygienist or dental technician under section 7A	\$135
(6)	Fee for late re-registration as a dental practitioner under section 7	\$140
(7)	Fee for late re-registration as a dental hygienist or dental technician under section 7A	\$60
(8)	Requesting a certificate of professional standing regarding a dental practitioner, dental hygienist or dental technician	\$25
(9)	Requesting a duplicate copy of registration certificate after issuance	\$25

[Schedule 2 inserted by 2020 : 47 s. 41 effective 11 December 2020]

[Assent Date: 31 March 1950]

[this Act was brought into operation on 11 December 1950 by notice published in Gazette No. 50 of 1950]

[Amended by:

1951 : 78
1951 : 93
1952 : 11
1963 : 1
1968 : 48
1969 : 366
1969 : 699
1970 : 390
1971 : 40
1971 : 43
1971 : 83
1972 : 3
1976 : 7

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1977 : 35
1996 : 17
2009 : 35
2015 : 49
2015 : 54
2019 : 8
2019 : 30
2020 : 47]