



BERMUDA

NURSING AND MIDWIFERY ACT 1997

1997 : 16

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#### FIRST SCHEDULE

#### SECOND SCHEDULE

Nursing and Midwifery Professions Complaints Committee

WHEREAS it is expedient to repeal the Nurses Act 1969 and make new provision for regulating nursing:

*[Words of enactment omitted]*

### PART 1 PRELIMINARY

#### Short title

- 1 This Act may be cited as the Nursing and Midwifery Act 1997.

*[Section 1 amended by 2018 : 58 s. 2 effective 17 December 2018]*

#### Interpretation

- 2 In this Act—

“the Association” means the Bermuda Nurses Association;

“Code” means the code of conduct referred to in section 6B;

“Committee” means the Nursing and Midwifery Professions Complaints Committee established by section 6C;

“continuing professional education” has the meaning given in section 6A(2);

“the Council” means the Council referred to in section 3;

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“general nurse”, “nurse specialist”, “advanced practice nurse” and “nursing associate” have the meanings assigned to those expressions by rules made under subsection (2) of section 9;

“member”, except in sections 5(2)(a) and 8(3)(a), means member of the Council;

“midwife” means a midwife holding such qualifications and competencies as may be prescribed;

“the Minister” means the Minister responsible for Health;

“nurse” , except in section 8(3)(b), means a general nurse, a nurse specialist or an advanced practice nurse or any other category of nurse that may be prescribed;

“prescribe”, except in relation to prescribing a drug, means to prescribe by rules;

“professional misconduct” includes—

(a) incompetence or negligence in the practice of nursing or midwifery;

(b) improper or unethical conduct in relation to professional practice; and

(c) a contravention of, or failure to comply with, a provision of this Act or the rules, including a code of conduct prescribed under section 6B;

“the register” means the register maintained by the Council under section 4, and reference to—

(a) “registration” and “to register” are to be construed accordingly;

(b) “part of the register” means a part of a division of the register in relation to the divisions of the register as provided in section 4(2A);

“Registrar” means the person for whose appointment section 3B provides;

“the repealed Act” means the Nurses Act 1969;

“rules” means rules made by the Minister under section 9;

“training” includes education.

*[Section 2 amended by 2010 : 38 s. 2 effective 6 August 2010; Section 2 definition "Committee" amended by 2018 : 58 s. 4 effective 17 December 2018; Section 2 definition "midwife" inserted, and definitions "professional misconduct" and "the register" amended by 2018 : 58 s. 5 effective 17 December 2018; Section 2 definitions "Code", "continuing professional education" and "Registrar" inserted by 2020 : 47 s. 57 effective 11 December 2020]*

### PART 2

#### BERMUDA NURSING AND MIDWIFERY COUNCIL

The Bermuda Nursing and Midwifery Council

3 (1) There is established a body called “the Bermuda Nursing and Midwifery Council”.

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(1A) The Minister may appoint one or more persons to act as alternate to a member appointed under subsection (1).

(1B) An alternate 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.

(2) *[Repealed by 2018 : 58 s. 6]*

(3) *[Repealed by 2018 : 58 s. 6]*

(4) The functions of the Council are—

- (a) to promote the art and science of nursing or midwifery;
- (b) to develop and maintain high standards in the practice of nursing or midwifery;
- (c) to advise the Minister on matters relating to nursing or midwifery;
- (d) to administer the system of nursing or midwifery registration instituted by this Act; and
- (e) to carry out inquiries into complaints, and inquires on its own initiative, concerning nurses, nursing associates and midwives, as provided for by this Act.

(5) The provisions of the First Schedule have effect for the purpose of determining the constitution and powers of the Council and for regulating its proceedings.

*[Section 3 subsection (4)(e) inserted by 2010 : 38 s. 3 effective 6 August 2010; Section 3 heading and subsection (1) amended by 2018 : 58 s. 3 effective 17 December 2018; Section 3 amended by 2018 : 58 s. 6 effective 17 December 2018; Section 3 amended by 2018 : 58 s. 11 effective 17 December 2018; Section 3 amended by 2020 : 47 s. 59 effective 11 December 2020]*

### Protection from personal liability

3A A member of the Council shall not be personally liable for damages for anything done or omitted to be done in the discharge or purported discharge of the Council's functions under this Act, unless the act or omission was done or made in bad faith.

*[Section 3A inserted by 2018 : 58 s. 7 effective 17 December 2018]*

## PART 3

### REGISTER AND REGISTRATION

#### Registrar

3B (1) For the purposes of this Act, there shall be a Registrar for the Council to be known as the Registrar of Nursing and Midwifery.

(2) The Chief Nursing Officer, after consultation with the Council, shall designate, by instrument in writing, a person to be the Registrar of Nursing and Midwifery.

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(3) The Registrar shall perform the functions conferred on him by this Act.

(4) The Statutory Instruments Act 1977 shall not apply in relation to an instrument made under subsection (2) or section 3C(1).

*[Section 3B inserted by 2020 : 47 s. 61 effective 11 December 2020]*

### Delegation by Registrar

3C (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.

*[Section 3C inserted by 2020 : 47 s. 61 effective 11 December 2020]*

### The professional register

4 (1) The Council shall establish and maintain a register of nurses, nursing associates and midwives.

(2) The register of nurses, nursing associates and midwives shall consist of the divisions set out in subsection (2A) and shall contain—

- (a) the names of the nurses, nursing associates and midwives registered;
- (b) the different qualifications they are entitled to have registered;
- (c) the different standards of training; and
- (d) any other details as may be prescribed in the rules.

(2A) The register of nurses, nursing associates and midwives shall consist of the following divisions—

- (a) the nurses and nursing associates division; and
  - (b) the midwives division.
- (3) The Minister may make provision by rules—
- (a) as to the documentary and other evidence to be produced by those applying for registration or for additional qualifications to be recorded, or for any entry in the register to be altered or restored;

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- (b) as to the keeping of the register and the means of obtaining access to, and copies of extracts from, it;
  - (c) for a person's registration to remain effective without limitation of time (subject to removal from the register for misconduct or otherwise) or to lapse after a specified period or in specified cases, or to be capable of renewal as and when provided by the rules.
- (4) The Minister may by order provide—
- (a) for persons to be registered in one or more parts of the register by virtue of having been included in one or more registers, rolls or lists maintained under the repealed Act, or having been certified under that Act;
  - (b) for a specified part of the register to be closed, as from a date specified by the order, so that on or after that date no further persons can become registered in that part.
- (5) The Minister shall consult the Council before making, varying or revoking an order under subsection (4).
- (6) Such an order is subject to the negative resolution procedure.
- (7) Copies of the register shall be deposited for public inspection at the offices of the Bermuda Nursing and Midwifery Council, at the Ministry of Health Headquarters and at such other places as the Council may determine.
- (7A) The Council shall publish a notice in the Gazette annually indicating the places where copies of the register are available for public inspection.
- (8) A certificate issued and duly authenticated by the Council stating that a person is, or was at any date, or is not, or was not at any date, registered is evidence in all courts and tribunals of the fact stated in the certificate.
- (9) In any enactment or instrument (past or future, and including this Act) "registered", in relation to a nurse, nursing associate or midwife, means registered in the register maintained under this section by virtue of qualifications as such a nurse, nursing associate or midwife, as the case may be.

*[Section 4 amended by 2010 : 38 s. 4 effective 6 August 2010; Section 4 subsection (7) amended by 2018 : 58 s. 3 effective 17 December 2018; Section 4 amended by 2018 : 58 s. 8 effective 17 December 2018; Section 4 subsection (9) amended by 2018 : 58 s. 11 effective 17 December 2018]*

### Admission to the register

- 5
- (1) A person seeking admission to a division or part of the register must make an application to the Council for a registration certificate, in a form determined by the Council, and submit payment of the relevant fee prescribed under the Government Fees Act 1965.
- (2) Subject to subsection (4) below, the applicant shall be registered in that division or part if he satisfies the Council that he—
- (a) is of good character;
  - (b) has the appropriate qualifications; and

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(c) has either Bermudian status or the right to work in Bermuda in an occupation for which those qualifications qualify him.

(3) He is to be regarded as having those qualifications if—

(a) he has in Bermuda undergone the training, and passed the examinations, required by the rules for admission to that division or part of the register; or

(b) he has professional qualifications obtained outside Bermuda, and either—

(i) those qualifications are recognised by the Council as being to a standard sufficient to justify his registration in that division or part; or

(ii) they are not so recognised but the applicant has undergone in Bermuda or elsewhere such additional training as the Council may require.

(4) An applicant whose professional qualifications were obtained outside Bermuda and whose first language is not English must satisfy the Council that he has sufficient knowledge of the English language to be able to function as a nurse, nursing associate or midwife in Bermuda.

(5) On registration of a person under subsection (2), the Council shall issue to that person a registration certificate in a form determined by the Council.

(6) *[Repealed by 2020 : 47 s. 62]*

*[Section 5 amended by 2010 : 38 s. 5 effective 6 August 2010; subsection (1) amended by 2014 : 25 s. 2 effective 29 July 2014; Section 5 amended by 2018 : 58 s. 10 effective 17 December 2018; Section 5 subsection (4) amended by 2018 : 58 s. 11 effective 17 December 2018; Section 5 subsection (6) repealed by 2020 : 47 s. 62 effective 11 December 2020]*

### Period of validity of registration

5A (1) Unless sooner cancelled and subject to subsections (2) and (3), the registration of a registered nurse, nursing associate or midwife 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 nurse, nursing associate or midwife on a date that falls between the start, and end, of the applicable registration cycle for nurses, nursing associates or midwives.

(3) Where this subsection applies, the registration of the nurse, nursing associate or midwife may, if the Council 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 5A inserted by 2020 : 47 s. 62 effective 11 December 2020]*

### Renewal of registration

6 (1) A person may make an application to the Council for renewal of his registration certificate, in a form determined by the Council, and shall submit payment of the relevant fee prescribed under the Government Fees Act 1965.

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(2) An application for renewal of a registration certificate shall be made before the date when the certificate is due to expire.

(3) The Council shall issue a renewal of registration certificate if the Council is satisfied that the applicant—

- (a) continues to meet the conditions set out in section 5(2);
- (b) has been engaged in the practice of nursing, or the particular type of nursing for which the person applies to be registered, or midwifery as the case may be, for the prescribed number of hours per year in the two year period immediately prior to the date of application; and
- (c) at the date of application is in compliance with the requirements of section 6A with regard to continuing professional education.

(4) *[Repealed by 2020 : 47 s. 63]*

(5) If the Council decides not to issue a renewal of a person's registration certificate, that person's name shall be removed from the registry at the end of the period allowed under section 7 for appeal of the decision, unless the person appeals the decision, in which case the person's name may not be removed from the registry until after disposition of the appeal.

*[Section 6 repealed and replaced by 2010 : 38 s. 6 effective 6 August 2010; amended by 2014 : 25 s. 3 effective 29 July 2014; Section 6 subsection (3)(b) amended by 2018 : 58 s. 11 effective 17 December 2018; Section 6 amended by 2020 : 47 s. 63 effective 11 December 2020]*

### Continuing professional education

6A (1) Every registered nurse, nursing associate and midwife shall complete a prescribed number of hours of continuing professional education during each period for which their registration certificate, or renewal of registration certificate, is valid.

(2) For the purpose of this section "continuing professional education" means any program of training or development of knowledge that the Council may approve for nurses, nursing associates or midwives.

*[Section 6A inserted by 2010 : 38 s. 6 effective 6 August 2010; Section 6A amended by 2018 : 58 s. 11 effective 17 December 2018]*

## PART 4

### INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS

#### Code of conduct

6B (1) The Council may prescribe a code of conduct for nurses, nursing associates and midwives and such code may incorporate by reference standards of conduct of professional nursing and midwifery organizations and shall send a copy of the Code as amended from time to time to each person at his address on the register.

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(1A) The Code may contain guides to ethical conduct, standards of practice or scopes of practice.

(2) Every registered nurse, nursing associate and midwife shall inform the Council if they are—

- (a) convicted of any offence for which that nurse, nursing associate or midwife is sentenced to a term of imprisonment without the option of a fine;
- (b) found guilty of professional misconduct by any body that regulates the nursing or midwifery profession outside Bermuda; or
- (c) struck off the register of nurses, nursing associate or midwives in any place outside Bermuda.

(3) Where an inquiry has been conducted by the Council under section 6E or 6F, the Council may make a finding of negligence, incompetence or other improper conduct, notwithstanding that the conduct in question is not prohibited by the Code, but they shall not make such a finding if that conduct is authorised by the Code.

*[Section 6B inserted by 2010 : 38 s. 6 effective 6 August 2010; Section 6B amended by 2018 : 58 s. 9 effective 17 December 2018; Section 6B amended by 2020 : 47 s. 65 effective 11 December 2020]*

### Nursing and Midwifery Professions Complaints Committee

6C (1) There shall be established, in accordance with the Second Schedule, a committee to be known as the “Nursing and Midwifery Professions Complaints Committee”.

(2) The functions of the Committee are—

- (a) to receive and investigate, or cause to be investigated, complaints against any registered person including any allegation that—
  - (i) the person’s registration was improperly obtained,
  - (ii) the person is guilty of professional misconduct,
  - (iii) the person is unfit to practise by reason of conviction of an indictable offence or adverse physical or mental health, or
  - (iv) the person is otherwise unfit to practise or to be registered; and
- (b) 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 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 made by the complainant or—

- (i) 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, and
- (ii) if the conduct complained of relates to a person who is dead, by the person's executor or personal representative;
- (b) shall be in writing and addressed to the Committee;
- (c) shall set out the matters alleged to constitute grounds for disciplinary action to be taken against the person who is the subject of the complaint; and
- (d) may be required by the Committee to be in a form approved by the Committee.

(5) The Second Schedule has effect as to the appointment and proceedings of the Committee and other matters relating to the Committee.

(6) If the Committee considers that a complaint arose from a misunderstanding by the complainant or between the complainant and the person complained of, the Committee may, before proceeding further with the investigation of the complaint, require the parties to appear before it in order to discuss the matter with a view to clarifying the misunderstanding and resolving the matter informally.

*[Section 6C inserted by 2010 : 38 s. 6 effective 6 August 2010; Section 6C heading and subsection (1) amended by 2018 : 58 s. 4 effective 17 December 2018]*

#### Investigation of complaint by Committee

6D (1) Where a complaint under section 6C(4) is not resolved informally, the 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 referred to the Council; or
- (b) ought to be referred to the Council for decision.

(2) The Committee—

- (a) shall give written notice to the person who is the subject of the complaint that a complaint has been made, together with a summary of the matters alleged in the complaint;
- (b) shall request that the person who is the subject of the complaint show cause in writing, within a specified time after the notice is given, explaining why the matter should not be placed before the Council for determination; and
- (c) may take evidence from witnesses on oath or affirmation, administered by the Chairman.

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(3) If the Committee determines that a complaint is frivolous or vexatious, is made in bad faith, is an abuse of process or otherwise ought not to be considered by the Committee, it shall dismiss the complaint and give written notice to the complainant of the dismissal and the reasons for the dismissal.

(4) If the Committee determines that a complaint ought to be referred to the Council for decision, the Committee shall, as soon as practicable, refer the matter to the Council.

*[Section 6D inserted by 2010 : 38 s. 6 effective 6 August 2010]*

### Inquiry into complaint by Council

6E (1) If a complaint is referred to the Council, the Council shall conduct an inquiry into the complaint.

(2) For the purposes of an inquiry under this section, the Council—

- (a) may take evidence from witnesses on oath or affirmation, and for that purpose the chairman of the Council may administer an oath or affirmation;
- (b) shall afford the registered person and the Committee, or any member of the Committee, every facility—
  - (i) to appear before the Council 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 of the complaint.

(3) Following its inquiry, the Council shall make a decision as to whether the complaint is proved or not proved, in whole or in part, together with reasons for its decision.

(4) If the Council decides that a complaint is not proved, in whole or in part, it shall dismiss the complaint to the extent that it is not proved.

(5) If the Council decides that a complaint is proved, in whole or in part, it shall record a finding to that effect and it may make any order of a disciplinary nature that it sees fit in respect of a person against whom the complaint is made, including an order—

- (a) admonishing the person;
- (b) suspending the person from the practice of nursing or midwifery for such period as it sees fit or for an indefinite period;
- (c) striking the name of the person off a division or part of the register; and
- (d) imposing conditions or limitations with regard to the practice of nursing or midwifery by the person.

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(6) The Council shall give written notice, to the person against whom the complaint is made, of its decision under subsection (3) and any order made by the Council under subsection (5), together with reasons.

(7) The person against whom the complaint is made may appeal against a decision or order of the Council in the manner provided in section 7.

(8) Any proceedings in connection with the holding of an inquiry by the Council under this section shall, for the purposes of the provisions of the Criminal Code Act 1907 relating to perjury, be deemed to be judicial proceedings.

(9) A member of the Council who was involved in the matter complained of may not participate in an inquiry by the Council under this section.

(10) A person who is suspended from practice under this section shall, for the duration of the suspension, be deemed not to be registered.

*[Section 6E inserted by 2010 : 38 s. 6 effective 6 August 2010; Section 6E subsection (5)(c) amended by 2018 : 58 s. 10 effective 17 December 2018; Section 6E subsection (5)(b) and (d) amended by 2018 : 58 s. 11 effective 17 December 2018; Section 6E amended by 2020 : 47 s. 66 effective 11 December 2020]*

### Inquiry by Council of its own initiative

6F (1) In the absence of a complaint, the Council may, of its own initiative, hold an inquiry into any matter referred to in section 6C(2) that could have formed the subject of an investigation by the Committee.

(2) The provisions of section 6E that apply in respect of an inquiry by the Council under that section into a complaint apply to an inquiry under this section with any necessary modifications.

*[Section 6F inserted by 2010 : 38 s. 6 effective 6 August 2010; Section 6F amended by 2020 : 47 s. 66 effective 11 December 2020]*

### Voluntary removal of name from register

6G (1) Any person who desires to have his name removed from the register shall make an application, in a form determined by the Council, and shall submit payment of the relevant fee prescribed under the Government Fees Act 1965.

(2) Upon approval of the application and payment of the relevant fee, the Council shall make the necessary alterations to the register.

*[Section 6G inserted by 2010 : 38 s. 6 effective 6 August 2010; amended by 2014 : 25 s. 4 effective 29 July 2014]*

### Restoration of name to register

6H (1) A person whose name has been removed from the register under section 6G, or whose name has been struck from the register, or who has been suspended from practice, under section 6E or 6F, may make an application to the Council, in a form determined by the Council, for his name to be restored to the register or for his suspension to be terminated, as the case may be.

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(2) On receipt of an application, the Council shall decide whether or not to restore the applicant's name to the register or to terminate their suspension, after considering the following matters—

- (a) the character and professional ability of the applicant;
- (b) the nature of the matter in respect of which the applicant's name was struck from the register or for which the applicant was suspended;
- (c) the conduct of the applicant after his name was struck from the register or after they were suspended; and
- (d) any other circumstances appearing to the Council to be relevant.

(3) The Council shall give written notice to the applicant of its decision, together with reasons.

(4) An applicant may appeal against a decision of the Council in the manner provided in section 7.

*[Section 6H inserted by 2010 : 38 s. 6 effective 6 August 2010]*

### PART 5 MISCELLANEOUS

#### Appeals

7 (1) A person aggrieved by any decision of the Council referred to in paragraphs (a) to (e) of this subsection may, within 28 days after the date on which notice of the decision is given to the person by the Council, appeal to the Supreme Court against the decision. The following are decisions that may be appealed—

- (a) a decision not to issue or renew a registration certificate;
- (b) a decision to remove the name of a person from the register;
- (c) a decision to remove, or alter, any entry in the register in respect of a person;
- (d) a decision not to restore a person's name to the registry;
- (e) a decision not to terminate a person's suspension.

(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.

*[Section 7 subsection (1) amended by 2010 : 38 s. 7 effective 6 August 2010]*

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### False claims

8 (1) A person commits an offence if, with intent to deceive (whether by words or in writing or by the assumption of a name or description, or by the wearing of a uniform or badge or by any other kind of conduct)—

- (a) he falsely represents himself to be a nurse, nursing associate or midwife or to possess qualifications in nursing or midwifery; or
- (b) he falsely represents himself to be registered in the register, or in a particular division or part of it.

(2) A person commits an offence if—

- (a) with intent that a person shall be deceived, he causes or permits another person to make any representation about himself which, if made by himself with intent to deceive would be an offence in him under subsection (1); or
- (b) with intent to deceive, makes with regard to another person a representation which—
  - (i) is false to his own knowledge; and
  - (ii) if made by the other with that intent would be an offence by the other under that subsection.

(3) Subsection (1) does not apply to—

- (a) a person who practises nursing in accordance with his duties as a member of the Armed Forces of the Crown or of the Government of the United States; or
- (b) a person who, being a qualified nurse of a country or territory other than Bermuda, accompanies a patient to Bermuda and practises nursing in relation to that patient in Bermuda for a period not exceeding one month.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding \$10,000 or imprisonment for six months or to both for a first offence, and to a fine not exceeding \$20,000 or imprisonment for one year or to both for a second or subsequent offence.

*[Section 8 amended by 2010 : 38 s. 8 effective 6 August 2010; Section 8 subsection (1)(b) amended by 2018 : 58 s. 10 effective 17 December 2018; Section 8 subsection (1)(a) amended by 2018 : 58 s. 11 effective 17 December 2018; Section 8 subsection (4) amended by 2020 : 47 s. 68 effective 11 December 2020]*

### Prohibition regarding practice of nursing or midwifery

8A (1) No person who is not a registered nurse, nursing associate or midwife shall practise nursing or midwifery in Bermuda or hold himself out as practising nursing or midwifery in Bermuda.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding \$10,000 or imprisonment for six months or to

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both for a first offence, and to a fine not exceeding \$20,000 or imprisonment for one year or to both for a second or subsequent offence.

*[Section 8A inserted by 2010 : 38 s. 9 effective 6 August 2010; Section 8A heading and subsection (1) amended by 2018 : 58 s. 11 effective 17 December 2018; Section 8A subsection (2) amended by 2020 : 47 s. 69 effective 11 December 2020]*

### Prohibition regarding practice of midwives

8AA (1) A person who is not a registered midwife shall not attend any woman in childbirth, whether or not such attendance is for gain, unless such attendance—

- (a) is given under the direction and personal supervision of a registered medical practitioner; or
- (b) is given in an emergency.

(2) Any person who contravenes any provision of this section is guilty of an offence and is liable on summary conviction to a fine not exceeding \$10,000 or imprisonment for six months or to both for a first offence, and to a fine not exceeding \$20,000 or imprisonment for one year or to both for a second or subsequent offence.

(3) Nothing in this section shall apply—

- (a) in relation to a registered medical practitioner; or
- (b) in relation to a woman who attends another woman in childbirth under the direction and personal supervision of a registered midwife, where such attendance is part of a course of training in midwifery approved by the Council.

*[Section 8AA inserted by 2018 : 58 s. 12 effective 17 December 2018; Section 8AA subsection (2) amended by 2020 : 47 s. 69 effective 11 December 2020]*

### Prohibitions against prescription of drugs

8B (1) No nurse, other than an advanced practice nurse, and no nursing associate or midwife shall prescribe any drugs that are listed in the Third or Fourth Schedule of the Pharmacy and Poisons Act 1979.

(2) An advanced practice nurse may only prescribe drugs on the authorization of a registered medical practitioner.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding 3,000 dollars.

*[Section 8B inserted by 2010 : 38 s. 9 effective 6 August 2010; Section 8B subsection (1) amended by 2018 : 58 s. 11 effective 17 December 2018]*

### Notice

8C Any application, notice or other document which is required or authorized under the Act to be made or given to, or served on, any person may be made, given or served by hand delivering it to the person or delivering it by registered mail to the person, or—

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- (a) in the case of the Minister, by delivering it to an officer in the Ministry of Health;
- (b) in the case of the Council, by delivering it to the chairman or deputy chairman of the Council or the Registrar; and
- (c) in the case of any person other than the Minister or the Council, by leaving it at, or sending it to his usual or last business address.

*[Section 8C inserted by 2010 : 38 s. 9 effective 6 August 2010; Section 8C amended by 2020 : 47 s. 70 effective 11 December 2020]*

### Annual report

8D The Council shall, not later than such time as the Minister may determine after the end of each calendar year, submit a report to the Minister on its activities for that year, including a report by the Committee on its activities.

*[Section 8D inserted by 2010 : 38 s. 9 effective 6 August 2010; Section 8D amended by 2020 : 47 s. 71 effective 11 December 2020]*

### Rules

9 (1) The Minister may, after consultation with the Council, make rules for the purpose of giving effect to this Act, and in particular with respect to anything which by this Act is required or authorised to be prescribed or provided for by rules.

(2) Without prejudice to subsection (1), the Minister may, after consultation with the Council, make rules—

- (a) defining the expressions “general nurse”, “nurse specialist”, “advanced practice nurse”, “nursing associate” and “midwife”;
- (b) establishing and defining additional categories of nurses;
- (c) describing the functions of different categories of nurses and of nursing associates;
- (d) prescribing the qualifications, training and experience required for different categories of nurses, for nursing associates and for midwives; and
- (e) prescribing anything that is authorized or required to be prescribed under this Act.

(3) The Minister shall consult the Council before making, amending or revoking any rules.

(4) Rules are subject to the negative resolution procedure.

*[Section 9 amended by 2010 : 38 s. 10 effective 6 August 2010; Section 9 subsection (2) amended by 2018 : 58 s. 13 effective 17 December 2018]*

### Repeal

10 The Nurses Act 1969 is repealed.

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Commencement

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

FIRST SCHEDULE

(Section 3(5))

THE BERMUDA NURSING COUNCIL

PART I

CONSTITUTION OF COUNCIL

- 1 (1) The Council shall consist of ten members.
- (2) Of those—
- (a) the Chief Nursing Officer shall be a member *exofficio*;
  - (b) three members shall be general nurses, of whom—
    - (i) one shall be appointed by the Association; and
    - (ii) two shall be appointed by the general nurses of Bermuda in elections conducted by the Council;
  - (c) one member shall be a nurse specialist appointed by the nursing specialists of Bermuda in elections conducted by the Council;
  - (ca) one member shall be an advanced practice nurse appointed by the Minister on the recommendations of registered advanced practice nurses;
  - (d) one member shall be a nursing associate appointed by the nursing associates of Bermuda in elections conducted by the Council;
  - (e) one member shall be a registered medical practitioner appointed by the Bermuda Medical Doctors Association;
  - (ea) one member shall be a midwife appointed by the Minister after consultation with the registered midwives;
  - (f) one member shall be a person appointed by the Minister who—
    - (i) is not a general nurse or an advanced practice nurse or a nurse specialist or a nursing associate or a registered medical practitioner or a midwife; and
    - (ii) is in the Minister's opinion qualified by training, experience or both to assist the Council in matters of a legal or ethical nature.
- (3) [Repealed by 2010 : 38]

- 2 For every member appointed under (b), (c), (ca), (d), (e), (ea) or (f) of sub-paragraph (2) of paragraph 1 ("the primary member"), there shall be an alternate member appointed,

in the same manner as that by which the primary member is appointed, to perform the functions of the primary member as circumstances may require.

- 3 The Council shall have—
- (a) a chairman appointed by the Minister from among the members mentioned in (b), (c) or (ca) of sub-paragraph (2) of paragraph 1; and
  - (b) a deputy chairman appointed by the Council from among the Council's members.

## PART II

### OTHER PROVISIONS WITH RESPECT TO CONSTITUTION ETC. OF COUNCIL

#### *TENURE OF OFFICE OF MEMBERS AND CHAIRMAN ETC.*

- 4 (1) A member shall hold office for the term of 3 years.
- (2) A member (other than the Chief Nursing Officer) may not at any time be appointed to a third consecutive term of membership, but, subject to that, a member may be re-appointed.
- 5 (1) Where a member's place becomes vacant (whether by death, resignation or otherwise) before the expiration of his term, the vacancy shall be filled in the same manner as that by which he became a member.
- (2) A person who becomes a member under sub-paragraph (1) shall, subject to sub-paragraph (3), hold office for the remainder of the term of the former member whose place he fills.
- (3) The term of a person who has become a member under sub-paragraphs (1) and (2) is his first term for the purposes of sub-paragraph (2) of paragraph 4.
- 6 If the chairman or the deputy chairman ceases to be a member, he shall also cease to be chairman or deputy chairman.

#### *Procedure*

- 7 (1) The Council may act notwithstanding any vacancy among its members.
- (2) At any meeting of the Council the quorum shall be 5 members but for matters affecting midwives the member representing midwives must be present.
- (2A) At a meeting of the Council—
- (a) in the event of an equality of votes, the chairman shall have a casting vote;
  - (b) a member of the Council shall have no vote in relation to any matter arising which touches or concerns him, unless the Council has resolved that the

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interest the member has in the matter does not give rise to a conflict of interest.

(2B) The Chief Nursing Officer may attend a meeting of the Council and may assist the Council in its deliberations on any matter, but shall not be counted for the purpose of constituting a quorum and shall have no vote.

(3) The Council may constitute committees of itself for the purpose of transacting particular business of the Council.

(4) The Council may, in its discretion, appoint from among its own members or from among other persons such number of committees as it thinks fit for purposes which, in the opinion of the Council, would be more expediently carried out and managed by such committees.

(4A) The chairman of any committee appointed under subparagraph (4) shall be a member of the Council.

(5) The Council may, by means of standing orders, regulate its own procedure and that of any committees constituted under sub-paragraph (3), and may, to such extent and in such cases as may be permitted or required by its standing orders, act through those committees.

(6) No defect in the appointment of any member shall invalidate any proceedings of the Council or of its committees.

### *Documents*

8 A document purporting to be duly executed under the seal of the Council or to be signed on its behalf shall be received in evidence, and is deemed to be so executed or signed unless the contrary is proved.

*[First Schedule amended by 2010 : 38 s. 11 effective 6 August 2010; paragraph 1(2)(e) amended by 2016 : 3 s. 24 effective 1 April 2016; First Schedule amended by 2018 : 58 s. 14 effective 17 December 2018; First Schedule amended by 2020 : 47 s. 72 effective 11 December 2020]*

SECOND SCHEDULE

(section 6C)

NURSING AND MIDWIFERY PROFESSIONS COMPLAINTS COMMITTEE

1. The Committee shall consist of three members appointed by the Minister, as follows—
  - (a) two from a list that consists of a registered nurse, a registered nursing associate and a registered midwife in good standing who are nominated by the Council;
  - (b) *[deleted by 2018 : 58 s. 15]*
  - (c) a barrister and attorney who is admitted and enrolled in Bermuda.
- 1A. Where a question or matter to be determined by the Committee concerns a nurse, nursing associate or midwife whose profession is not represented in the Committee constituted under paragraph 1, the Minister shall appoint a member in good standing from the profession not represented in the Committee as a co-opted member of the Committee for the purpose of the determination of that question or matter.
2. A person who is a member of the Council may 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 member is eligible for reappointment.
4. The Minister may appoint a second person 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 be appointed annually by the Minister from among the members of the Committee to hold office until December 31 of the year for which he was appointed, and who shall be eligible for re-appointment as chairman.
7. If at any time the chairman ceases to be a member of the Committee, or for any other reason ceases to hold office as chairman, the Minister shall, as soon as possible, appoint from among the members of the Committee another person to be chairman.
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 or of the chairman.

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

14. The Committee shall, not later than at such time as the Minister may determine after the end of each calendar year, submit a report on its activities for that year to the Council.

*[Second Schedule repealed and replaced by 2010 : 38 s. 12 effective 6 August 2010; Second Schedule heading amended by 2018 : 58 s. 4 effective 17 December 2018; Second Schedule amended by 2018 : 58 s. 15 effective 17 December 2018; Second Schedule amended by 2020 : 47 s. 73 effective 11 December 2020]*

[Assent Date: 28 March 2003]

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*[Amended by:*

2010 : 38

2014 : 25

2016 : 3

2018 : 58

2020 : 47]