



BERMUDA

ALLIED HEALTH PROFESSIONS ACT 2018

2018 : 67

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WHEREAS it is expedient to repeal the Allied Health Professions Act 1973 and the Chiropractors Act 2002, to re-enact the Allied Health Professions Act 1973 with amendments, and to include the regulation of chiropractors and certain other specified professions under this Act;

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

PART 1 PRELIMINARY

Citation

1 This Act may be cited as the Allied Health Professions Act 2018.

Interpretation

- 2 (1) In this Act, unless the context otherwise requires—
- “applicable fee” means the fee referred to in section 34(1);
 - “appropriate authority” in relation to a specified profession, means—
 - (a) the Board established for that profession;
 - (b) where there is no such Board, the Council;
 - “assistant” means a person who is registered as such under section 15;
 - “Bermuda Health Council” means the Bermuda Health Council established under section 3 of the Bermuda Health Council Act 2004;
 - “Bermuda Medical Council” means the Bermuda Medical Council constituted under the Medical Practitioners Act 1950;
 - “Board” means a Board established or continued under section 11;
 - “Code of Conduct” or “Code” means a code referred to in section 27;
 - “Committee” means the Allied Health Professional Conduct Committee established under section 22;
 - “continuing education” means the continuing education programme referred to in section 17(1)(c);
 - “Council” means the Council for Allied Health Professions continued under section 4;
 - “medical practitioner” means a person entitled to practise in Bermuda as a medical practitioner under the Medical Practitioners Act 1950;
 - “Minister” means the Minister responsible for health;
 - “prescribed” means prescribed by regulations;
 - “professional misconduct” includes—
 - (a) incompetence or negligence in the provision of professional services;

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- (b) improper or unethical conduct in relation to the provision of professional services; or
- (c) a contravention of or a failure to comply with—
 - (i) a provision of this Act; or
 - (ii) professional standards of practice or a code of conduct prepared under section 27 applicable to registered persons or specified professions and established by a Board or the Council under this Act;

“the register” means the Register of Allied Health Professions referred to in section 14(1);

“registered person” means a registered practitioner or an assistant;

“registered practitioner” means a person who is registered under section 15 to practise a specified profession;

“Registrar” means the person for whose appointment section 13 provides;

“regulations” means regulations prescribed under section 33;

“specified profession” means an allied health profession specified in Schedule 1.

(2) The Council shall, so far as is practicable, discharge its functions under this Act after consultation with members of the specified profession concerned or, where there is a Board for the specified profession, after consultation with the Board.

[Section 2 subsection (1) definition "Registrar" repealed and replaced, and definitions "applicable fee", "Bermuda Health Council", "Code of Conduct", "Code" and "continuing education" inserted by 2020 : 47 s. 2 effective 11 December 2020]

Act not to apply in relation to certain armed forces

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

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

PART 2

THE COUNCIL

Constitution of Council

4 (1) There shall continue to be for all the specified professions a body known as the Council for Allied Health Professions.

(2) The Council shall consist of—

- (a) the Chairman, appointed by the Minister;
 - (b) one representative elected by the Board of each specified profession for which a Board is established, from among registered practitioners practising that profession;
 - (c) a medical practitioner appointed by the Minister after consultation with the Bermuda Medical Council; and
 - (d) a person appointed by the Minister who appears to him to be qualified by training or experience or both to assist the Council in matters of a legal or ethical nature.
- (3) The provisions contained in Schedule 2 shall have effect with respect to the Council.

Functions of Council

5 The functions of the Council are to—

- (a) promote the interests of patients and other members of the public in relation to the performance of Boards, registered persons and specified professions;
- (b) coordinate the activities of Boards and specified professions, determine their relationship with the medical profession and other related health professions and advise the Minister in respect thereto;
- (c) in addition to any code of conduct prepared by an appropriate authority in accordance with section 27, establish professional standards of practice applicable to registered practitioners, assistants or specified professions and encourage conformity with them;
- (d) direct the registration of persons;
- (e) exercise disciplinary control over registered persons and establish administrative processes for handling complaints received against them;
- (f) after consultation with the Board of a specified profession, if there is one, or members of the specified profession, if there is no Board for that profession, establish—
 - (i) qualifications and practical experience required for registration as a registered practitioner or as an assistant in that profession; and
 - (ii) requirements for the continuing education of registered practitioners and of assistants in that profession;
- (g) advise the Minister on whether—
 - (i) a health profession should be designated as a specified profession under this Act for the purposes of section 9; or
 - (ii) a specified profession should be removed from Schedule 1 in accordance with section 10(1)(b);

- (h) investigate and report to the Minister on the performance by each Board of its functions;
- (i) where a Board performs functions corresponding to those of another body (including another Board), investigate and report to the Minister on how the performance of such functions by those other bodies compares with the performance of the functions by the Board;
- (j) recommend to any Board changes in the way in which it performs any of its functions; and
- (k) carry out any other function assigned to it by this Act or by the Minister.

PART 3

DESIGNATION OF SPECIFIED PROFESSIONS

Application for designation as specified profession

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

(2) An application under subsection (1) shall be in the form and contain the information required by the Minister.

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

- (a) approve or refuse to approve the application without investigation; or
- (b) conduct an investigation in accordance with section 8 to determine whether a health profession should be designated.

Investigation by Minister where no application

7 The Minister may, in the absence of an application under section 6(1), on his own initiative conduct, in accordance with section 8, an investigation to determine whether a health profession should be designated.

Investigation regarding designation

8 (1) If the Minister decides to conduct an investigation under section 6(3)(b) or 7, he shall give public notice in such manner as he may determine of the investigation.

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

- (a) require the directors and officers of the association of members of a health profession, members of a health profession, or the applicant to provide further information;
- (b) examine the directors and officers of the association of members of a health profession, members of a health profession, or the applicant;
- (c) seek the advice of other associations, organizations or persons;

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

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

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

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

Determination by Minister

9 (1) The Minister shall, after consultation with the Council, determine whether it is in the public interest to designate a health profession as a specified profession under this Act and, where an investigation has been conducted under section 6(3)(b) or 7, he shall have regard to any information obtained during the investigation.

(2) If the Minister determines that a health profession should be a specified profession, he shall so designate the profession and add it to Schedule 1 in accordance with section 10.

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

(4) If an application is made under section 6(1) and the Minister determines under subsection (1) that it is contrary to the public interest to designate the health profession as a specified profession, the Minister shall refuse the application and provide the applicant with reasons for the refusal.

Amendment of Schedule 1

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

- (a) varying the definition or style of any specified profession; or
 - (b) adding any profession thereto or removing any profession therefrom.
- (2) Where an order adds a new profession to Schedule 1, notwithstanding section 28 but subject to subsection (3), a person practising the new specified profession in Bermuda may temporarily continue to so practise without being registered in that profession.
- (3) An order adding a specified profession to Schedule 1 shall appoint a date—
- (a) before which any person who at the time the order comes into operation is practising a new specified profession in Bermuda shall apply for registration in that specified profession; and
 - (b) after which any other person shall not practise that profession, or be an assistant in that profession, unless he is registered under this Act.
- (4) For the avoidance of doubt, a person referred to in subsection (3)(a) may continue to practise without being registered in that profession until his application is determined.
- (5) Without prejudice to subsection (3), an order made under this section may include such transitional provisions as the Minister thinks necessary.
- (6) The negative resolution procedure shall apply to orders made under this section.

PART 4
BOARDS

Constitution of Boards

- 11 (1) Each Board shall consist of a Chairman appointed by the Minister, and the other members shall be elected from among registered practitioners practising the specified profession or specified professions for which the Board is established as follows—
- (a) if there is one specified profession regulated by the Board, three members elected by that specified profession; and
 - (b) if there are two specified professions regulated by the Board, three members elected as follows—
 - (i) each specified profession shall elect one member; and
 - (ii) the combined membership of both specified professions shall elect the third member; and
 - (c) if there are three or more specified professions regulated by the Board, one member elected by each specified profession.

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(2) Where a specified profession is added to Schedule 1, the Minister shall, after consultation with the Council, determine whether the persons lawfully practising the specified profession—

- (a) shall be regulated by the Council;
- (b) shall be regulated by an existing Board; or
- (c) shall be regulated by a new Board established under subsection (3)(a).

(3) The Minister may, after consultation with the Council—

- (a) establish a new Board;
- (b) abolish a Board, after also consulting the Board,

if he is of the opinion that it is in the public interest to do so.

(4) The provisions contained in Schedule 2 shall have effect with respect to Boards.

Functions of Boards

12 (1) The Board, in respect of any specified profession that it regulates, shall recommend to the Council—

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

(2) A Board shall carry out any other function assigned to it by this Act, by the Council or by the Minister.

PART 5

REGISTRATION

Registrar

13 (1) For the purposes of this Act, there shall be continue to be a Registrar for the Council to be known as the Registrar of Allied Health Professionals.

(2) The Chief Executive Officer of the Bermuda Health Council shall be the Registrar for Allied Health Professionals.

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

[Section 13 repealed and replaced by 2020 : 47 s. 3 effective 11 December 2020]

Delegation by Registrar

13A (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 made under this section.

[Section 13A inserted by 2020 : 47 s. 3 effective 11 December 2020]

Maintenance of register

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

(2) The register shall—

(a) consist of the following divisions—

(i) the registered practitioners division; and

(ii) the assistants division; and

(b) within those divisions, have a separate part for each specified profession.

(3) The Registrar shall—

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

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

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

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

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

Application for registration

15 (1) A person who seeks to practise a specified profession in Bermuda or to be an assistant in a specified profession in Bermuda shall apply to the appropriate authority, in such form and manner as the Council may approve, to be registered as a registered practitioner or an assistant, as the case may be.

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

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

(4) An application under this section shall be accompanied by the applicable fee referred to in section 34.

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

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

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

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

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

- (a) cause the Registrar to register the applicant as a registered practitioner or as an assistant, as the case may be, in the specified profession in which he is recommended for registration;
- (b) notify the applicant in writing accordingly; and
- (c) direct the Registrar to issue to him a certificate of registration in such form as the Minister approves.

(9) The Registrar shall publish a notice of the registration in such manner as the Minister may determine.

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

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(11) Any person who is aggrieved by a decision to refuse registration or renewal of registration, may within 28 days after being notified in writing of the decision appeal to the Supreme Court against the decision by notice in writing setting out the grounds of appeal, and the Supreme Court shall decide the appeal and make such order in the appeal as seems just.

(12) A decision to refuse registration or to refuse to renew registration takes effect immediately, unless the court hearing the appeal otherwise directs.

Period of validity of registration

16 (1) Unless sooner cancelled and subject to subsections (2) and (3), the registration of a registered practitioner or of an assistant 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 registered practitioner or an assistant on a date that falls between the start, and end, of the applicable registration cycle for registered practitioners or assistants.

(3) Where this subsection applies, the registration of the registered practitioner or assistant 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 16 amended by 2020 : 47 s. 4 effective 11 December 2020]

Renewal of registration

17 (1) The Council may cause the registration of a person to be renewed if the person—

- (a) on or before the expiration date of his registration—
 - (i) applies for the renewal of registration; and
 - (ii) pays the renewal fee;
- (b) satisfies the requirements of section 15(5);
- (c) complies with the requirements of the continuing education programme that are applicable to him; and
- (d) completes the minimum number of practice hours (as determined by the Council) that are applicable to him.

(2) The Council may cause to be removed from the register the name of any person who fails to renew his registration under subsection (1) or whose application for renewal is refused.

Proof of registration

18 A certificate purporting to be under the hand of the Registrar declaring that a person named therein is, or is not, as the case may be, registered in the register, and in the

case of a person who is so registered specifying the date of registration, shall be admissible in any proceedings as prima facie evidence of the facts stated therein.

Inactive status and provisional registration

19 (1) Where a registered person intends—

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

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

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

- (a) if satisfied that he continues to meet the requirements for registration under section 15(5), direct the Registrar to reissue his certificate and remove the notation of inactive status; or
- (b) if not satisfied that he continues to meet the requirements for registration under section 15(5), direct the Registrar to register him for a provisional term, subject to a condition that he completes any specified continuing education, and to enter a notation on the register indicating provisional status.

Removal of names from register

20 (1) Where a person whose name appears on the register is convicted by any court in Bermuda or elsewhere of a criminal offence or is found unfit or guilty, pursuant to an allegation set out in section 22(2), the Council shall, subject to subsections (1A) and (2) and may direct that the person's name be removed from the register.

(1A) Where the Council direct the Registrar to remove the name of a person from the register, the Council shall cause the Registrar to give notice to the person accordingly.

(2) A direction shall not be given under subsection (1) save after an inquiry under section 24.

(3) Any person aggrieved by a direction of the Council under subsection (1) may, at any time within 28 days from the date of receiving notice of the direction, appeal against the direction to the Supreme Court.

(4) The Registrar, in any case where the Council direct that the name of a registered person should be removed from the register, shall on the tenth day after he has given notice to the registered person in accordance with subsection (1A), and subject to any directions of the Court, remove the name of the registered person from the register and—

- (a) inform the person by written notice under subsection (1A) that his name has been removed the register;
- (b) by the same or another notice given as provided in paragraph (a) 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 removal from the register 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.

[Section 20 amended by 2020 : 47 s. 5 effective 11 December 2020]

Registration after removal of name from register

21 A person whose name is removed from the register in pursuance of a direction of the Council under section 20 shall not be entitled to be registered in that register again except in pursuance of a direction in that behalf given by the Council on the application of that person; and a direction under section 20 for the removal of a person's name from the register may prohibit an application under this section by that person until the expiration of such period from the date of the direction as may be specified in the direction.

PART 6

PROFESSIONAL CONDUCT AND DISCIPLINE

Professional Conduct Committee

22 (1) There is established, in accordance with Schedule 3, a committee to be known as the Allied Health Professional Conduct Committee ("the Committee").

(2) Complaints may be made, in accordance with subsection (5), against any registered person, including allegations that—

- (a) the person's registration was improperly obtained;
- (b) the person is guilty of professional misconduct;
- (c) the person is unfit to be registered;
- (d) the person is unfit to practise by reason of a conviction of a criminal offence, adverse physical or mental health, or being drug or alcohol impaired in the course of performing professional functions.

(3) The functions of the Committee are—

- (a) to receive and investigate, or cause to be investigated, complaints made under subsection (2); and
- (b) to perform such other functions as may be assigned to it by the Council.

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

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

(5) A complaint made under subsection (2)—

- (a) shall be in writing;
- (b) 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; or
 - (ii) 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.

(6) Where—

- (a) in the absence of a complaint made under subsection (2), a matter comes to the attention of the Committee which appears to constitute grounds for disciplinary action against a registered person; or
- (b) a complaint is made under subsection (2) but the matter is withdrawn,

the Committee may treat, or continue to treat, the matter as if it were a complaint made under subsection (2).

(7) Schedule 3 has effect as to the appointment and proceedings of the Committee and other matters relating to the Committee.

Investigation by Committee

23 (1) Where a complaint is made (or treated as made) under section 22(2), 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;
- (b) arose from a misapprehension on the part of the complainant or a misunderstanding between the complainant and the registered person; or

(c) ought to be referred to the Council for decision.

(2) The Committee may, if it considers it is necessary for the protection of the public, recommend to the Council that it make an interim order suspending the registered person from the register for such period as the Council considers appropriate.

(3) The Committee—

(a) shall give written notice to the registered 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 registered 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;

(c) may require any person (whether or not a registered person) to provide information or documentation that appears to be relevant to a case, if the disclosure of that information or documentation is not prohibited under any Act;

(d) may take evidence from witnesses on oath or affirmation, administered by the Chairman; and

(e) shall give the registered person the opportunity to be heard.

(4) A person or practitioner may, under subsection (3)(c), be summonsed to appear before the Committee and provide evidence that is determined by the Committee to be relevant to a matter.

(5) 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.

(6) If the Committee considers that a complaint arose from a misapprehension on the part of the complainant or a misunderstanding between the complainant and the registered 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 misapprehension or misunderstanding and resolving the matter informally.

(7) The Committee may recommend to the Council that guidelines on future conduct be issued by the Council to all registered practitioners, to all assistants, or to all registered persons concerning any of the matters coming to the Committee's attention in the course of the investigation.

(8) 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.

(9) The Committee—

- (a) shall inform the Council of its findings; and
- (b) may make such recommendations as it thinks fit to the Council, including a recommendation that no further action be taken.

(10) Before imposing any disciplinary measure, the Council shall review any documents or information submitted to it by the Committee.

Inquiry into complaint by Council

24 (1) If, pursuant to an investigation under section 23 (Investigation by Committee), the Committee places the matter before the Council for determination, the Council shall inquire into the matter.

(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) may require any person (whether or not a registered person) to provide information or documentation that appears to be relevant to a matter, if the disclosure of that information or documentation is not prohibited under any Act;
- (c) shall afford the registered person and the Committee, or a member of the Committee, every facility—
 - (i) to appear before the Council;
 - (ii) to be represented by a barrister and attorney;
 - (iii) to call or cross-examine witnesses; and
 - (iv) generally to make a full defence or explanation in the matter of the complaint.

(3) A person may, under subsection (2)(b), be summonsed to appear before the Council and provide evidence that is determined by the Council to be relevant to a matter.

(4) 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.

(5) 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.

(6) 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, pursuant to its disciplinary powers under section 25, make any order of a disciplinary nature as it sees fit in respect of a registered person against whom the complaint is made.

(7) The Council shall give written notice to the complainant and the registered person against whom a complaint is made of its decision under subsection (4) and any order made by the Council under subsection (6), together with reasons.

(8) The registered person against whom the complaint is made may appeal to the Supreme Court against a decision or order of the Council within 28 days of receiving written notice thereof under subsection (7).

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

(10) 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.

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

Disciplinary powers of Council

25 (1) In addition to the powers conferred by section 20(1), the Council may—

- (a) impose one or more of the following conditions—
 - (i) a condition restricting the places and times at which the registered practitioner may provide professional services or the assistant may be employed in the provision of such services;
 - (ii) a condition limiting the kind of services that the registered practitioner may provide or the type of employment in which the assistant may be engaged;
 - (iii) a condition that the registered practitioner be supervised in the provision of professional services by a particular person or by a person of a particular class or that the assistant be supervised in the provision of such services by a registered practitioner or a particular class of registered practitioner; and
 - (iv) any other condition that the Council thinks fit;
- (b) admonish or warn the registered person;
- (c) require the registered person to pay a civil penalty not exceeding \$2,000;
- (d) suspend the registered person's registration in a specified profession for a period not exceeding one year; or
- (e) disqualify a registered person from being registered in a specified profession.

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

- (a) permanently;
- (b) for a specified period;
- (c) until the fulfilment of specified conditions; or
- (d) until a further order of the Council.

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

Civil penalties

26 (1) Where a court finds a registered person guilty of an offence and the circumstances of the offence form, in whole or in part, the subject matter of a complaint under this Act, the court shall take into account a civil penalty imposed under section 25(1)(c) in respect of the complaint when sentencing the registered person.

(2) The Council may, in relation to a penalty imposed on a registered person under section 25(1)(c)—

- (a) fix a period within which the penalty shall be paid; and
- (b) on application by the person liable to pay the penalty, extend the period within which the penalty shall be paid.

(3) A penalty imposed under section 25(1)(c) is recoverable by the Crown as a debt.

(4) If a person fails to pay a penalty imposed under section 25(1)(c), the Council may direct the Registrar to remove the person's name from the register.

Code of conduct

27 (1) It shall be the duty of the appropriate authority to prepare, and from time to time amend, after consultation with the Council, a code of conduct which the appropriate authority considers to be conduct and standards that are proper for registered practitioners and for assistants in a professional respect (hereinafter referred to as "the Code").

(2) The appropriate authority shall send to each registered person, to his address on the register, a copy of the Code and of any amendment made to the Code.

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

(4) In the exercise of its functions under sections 20 and 24, the Council shall, subject to subsection (5), be guided by any relevant provision of the Code.

(5) Where an inquiry has been conducted by the Council under section 24, the Council may find a person guilty of negligence, incompetence or other improper conduct, notwithstanding that the conduct in question is not prohibited by the Code, but it shall not find a person guilty of improper conduct if that conduct is authorized by the Code.

PART 7

GENERAL

Practice of specified profession and use of titles

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

(2) A person shall not practise a specified profession (by whatever name called) or practise as an assistant in a specified profession in Bermuda, unless—

- (a) he is registered in respect of that profession or authorized to practise that profession under section 32; or
- (b) his practice is incidental to the practice of some other profession lawfully carried on by him in accordance with the laws regulating the practice of that other profession.

(3) A person, whether or not a registered 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 registered practitioner other than a professional status or qualification which he in fact possesses, and which, is indicated by particulars entered in the register in respect of him.

(4) Any person who contravenes this section commits an offence and is liable on summary conviction to a fine of \$10,000 and, in the case of a second or subsequent conviction, a fine of \$20,000.

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

- (a) practising a profession or other occupation in accordance with this or another Act; or
- (b) providing or giving first aid or temporary assistance to another person in case of emergency if that aid or assistance is given without gain or reward or hope of gain or reward.

Use of “registered”

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

(2) Any person—

- (a) who uses, either alone or in conjunction with other words, the words “Government Registered”, or words of like purport to describe the nature of his practice, being that of a specified profession, and is not registered in respect of that profession; or

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- (b) who takes or uses any name, title, addition or description falsely implying, or who otherwise pretends, that his name is on the register,

commits an offence and is liable on summary conviction to a fine of \$10,000 or imprisonment for six months or to both for a first offence and, in the case of a second or subsequent conviction, a fine of \$20,000 or imprisonment for one year or to both.

[Section 29 subsection (2) amended by 2020 : 47 s. 6 effective 11 December 2020]

Penalty for false representations, etc., to obtain registration

30 If a person procures or attempts to procure the entry of any name on the register by wilfully making or producing, or causing to be made or produced, either orally or in writing, any declaration, certificate or representation which he knows to be false, he commits an offence and is liable on summary conviction to a fine of \$20,000.

Prohibitions in regulations regarding performance of services

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

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of \$10,000.

Locum tenens

32 (1) Notwithstanding section 28, the Council may authorize any person who is registered to practise a specified profession outside Bermuda to practise that profession as a locum tenens in Bermuda for a limited period not exceeding three months and subject to such conditions as the Council may impose.

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

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

Regulations

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

- (a) prescribe anything which, under this Act, is required or permitted to be prescribed;
- (b) prescribe the procedure to be followed by the Council;
- (c) prescribe the manner in which any notice required by the Act or regulations to be served on any person shall be served;
- (d) regulate the making of applications for registration and provide for the evidence to be produced in support of an application;
- (e) in relation to a specified profession, prescribe the following—

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- (i) the name of the Board;
 - (ii) one or more titles to be used exclusively by registered practitioners;
 - (iii) services that may be performed by registered practitioners and by assistants;
 - (iv) limits or conditions on the services that may be performed by registered practitioners or by assistants;
 - (v) services that may be performed only by registered practitioners; and
 - (vi) services that may be performed by an assistant under the supervision of a registered practitioner.
- (2) The negative resolution procedure shall apply to regulations made under this section.

Fees

- 34 (1) The applicable fees shall be payable to the Bermuda Health Council.
- (2) A person applying for registration under section 15 shall at the time of filing of the application for registration in respect of that application pay to the Bermuda Health Council the applicable fee referred to in subsection (1).
- (3) A registered person applying for renewal of registration shall within every two years after the date when the person is first registered, or such longer period as may be applicable pursuant to section 16, pay to the Bermuda Health Council the applicable fee referred to in subsection (1).
- (4) In this section, “applicable fee” means the fee set forth in Schedule 4.
- (5) Schedule 4 has effect as to fees that are payable under this Act.

[Section 34 repealed and replaced by 2020 : 47 s. 7 effective 11 December 2020]

Amendment of Schedule 4

- 34A (1) The Minister may by order amend Schedule 4 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 34A inserted by 2020 : 47 s. 8 effective 11 December 2020]

Annual reports

- 35 The Council shall submit to the Minister, as soon as practicable after the end of each year but not later than the day determined by the Minister, an annual report concerning registration, disciplinary proceedings and such other activities of the Council as the Minister may require.

[Section 35 amended by 2020 : 47 s. 9 effective 11 December 2020]

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Consequential repeals and amendments

- 36 (1) The Allied Health Professions Act 1973 is repealed.
- (2) The Chiropractors Act 2002 is repealed.
- (3) The First Schedule to the Government Authorities (Fees) Act 1971 is amended in Part B by adding the following entry in the appropriate alphabetical place—
- “Allied Health Professional Conduct Committee established under section 22 of the Allied Health Professions Act 2018”.
- (4) The Schedule to the Government Fees Regulations 1976 is amended in Head 3—
- (a) in the heading, by deleting “1973” and substituting “2018”;
 - (b) in paragraph (1), by deleting “section 5” and substituting “section 15”; and
 - (c) in paragraph (2), by deleting “section 5A” and substituting “section 17”.

Savings and transitional

- 37 (1) There shall continue to be the Council established under the repealed Act and, notwithstanding anything in section 4(2), but subject to paragraphs 1 and 2 of Part 1 of Schedule 2, the Chairman and each other member of the Council appointed or elected under the repealed Act shall continue in office until his term under the repealed Act expires.
- (2) Without prejudice to section 11(2) and (3), there shall continue to be the Boards established under the repealed Act and, notwithstanding anything in section 11(1), but subject to paragraphs 1 and 2 of Part 1 of Schedule 2, the Chairman and each other member of a Board elected under the repealed Act shall continue in office until his term under the repealed Act expires.
- (3) For the avoidance of doubt, section 11(2) shall apply in respect of the new specified professions.
- (4) A complaint against a registered person that, immediately before this Act comes into operation, is—
- (a) before the Preliminary Proceedings Committee or the Professional Conduct Committee established under the repealed Act; or
 - (b) before the Council,
- shall continue to be dealt with under the repealed Act as if this Act had not come into operation.
- (5) In accordance with subsection (6), there shall continue to be the specified professions established under the repealed Act.
- (6) A person who under the repealed Act, immediately before the commencement of this Act, is a registered person in a specified profession having the style listed in the first column of the following table shall, on the coming into operation of this Act, continue to be a registered practitioner in the specified profession having the style listed in the

ALLIED HEALTH PROFESSIONS ACT 2018

corresponding entry in the second column of the table, regardless of whether the definition of that specified profession is different in Schedule 1 from the definition in the First Schedule to the repealed Act or not, and the person shall be taken to have been registered under section 15—

| <i>Style of specified profession in First Schedule to repealed Act</i> | <i>Style of specified profession in Schedule 1</i> |
|--|--|
| addictions counsellor | shall continue to be known as an “addictions counsellor” |
| audiologist | shall continue to be known as an “audiologist” |
| chiropodist | shall be known as a “chiropodist” or “podiatrist” |
| diagnostic imaging technologist | shall continue to be known as a “diagnostic imaging technologist” |
| dietician | shall be known as a “dietician” or “dietitian” |
| emergency medical services practitioner | shall continue to be known as an “emergency medical services practitioner” |
| medical laboratory technician | shall be known as a “medical laboratory technologist” or “clinical laboratory scientist” |
| occupational therapist | shall continue to be known as an “occupational therapist” |
| physiotherapist/ physical therapist | shall continue to be known as a “physiotherapist” or “physical therapist” |
| specialist diagnostic imaging technologist | shall continue to be known as a “specialist diagnostic imaging technologist” |
| speech, language pathologist | shall be known as a “speech-language pathologist” |

(7) Notwithstanding section 28, but subject to subsection (8), a person practising a new specified profession in Bermuda may temporarily continue to so practise without being registered in that profession.

(8) The Minister shall, at such time after the coming into operation of this Act as he may determine, by notice published in the Gazette subject to the negative resolution procedure, appoint a date—

- (a) before which any person who at the time the notice comes into operation is practising a new specified profession in Bermuda shall apply for registration in that specified profession; and
- (b) after which any other person shall not practise that profession, or be an assistant in that profession, unless he is registered under this Act.

(9) For the avoidance of doubt, a person referred to in subsection (8)(a) may continue to practise without being registered in that profession until his application is determined.

(10) In this section, a “new specified profession” means any of the following specified professions—

- (a) acupuncturist;
- (b) chiropractor;
- (c) counsellor;
- (d) massage therapist;
- (e) social worker,

and “the new specified professions” shall be construed accordingly.

SCHEDULE 1

(section 2(1))

SPECIFIED PROFESSIONS

“acupuncturist” means a person skilled professionally and academically in inserting needles through the skin at strategic points on the body for therapeutic purposes or to relieve pain or produce regional anaesthesia;

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

“audiologist” means a person skilled professionally and academically in the identification, assessment and treatment of hearing disorders;

“chiropract” or “podiatrist” means a person skilled professionally and academically in the diagnosis and comprehensive management of the foot and lower limb pathologies;

“chiropractor” means a person skilled professionally and academically in the assessment, diagnosis and treatment of the spine, other joints, the associated tissue and the nervous system for the purposes of promotion, maintenance and restoration of health, through manipulation of the spine or other joints;

“counsellor” means a person skilled professionally and academically to give guidance on personal, social or psychological problems;

“diagnostic imaging technologist” means a person who is skilled professionally in the production of diagnostic images for medical interpretation through the use of one or more of the following diagnostic imaging techniques—

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

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

“emergency medical services practitioner” means one of the following professions—

- (a) emergency medical technician (EMT): a person who is certified in providing basic emergency medical procedures and pre-hospital care;
- (b) advanced emergency medical technician (advanced EMT): a person who is certified in providing a limited range of advanced life support emergency medical procedures and pre-hospital care;
- (c) paramedic: a person who is certified in providing a full range of advanced life support emergency medical procedures and pre-hospital care;

“massage therapist” means a person skilled professionally to manipulate the soft tissues of the body for the purpose of normalizing those tissues, and consists of manual techniques that include applying fixed or movable pressure and holding, or causing movement of or to, the body;

“medical laboratory technologist” or “clinical laboratory scientist” means a person skilled professionally and academically to perform phlebotomy and clinical laboratory testing such as chemical, haematological, immunologic, histopathological, cytopathological, microscopic, and bacteriological diagnostic analyses on body fluids such as, but is not limited to, blood, urine, sputum, stool, cerebrospinal fluid as well as other specimens to aid physicians in the diagnosis and treatment of a patient;

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

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

“social worker” means a person skilled professionally and academically to improve the quality of life and subjective well-being of individuals, families, couples, groups and communities by providing psychological counselling, guidance and assistance, especially in the form of social services;

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

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

SCHEDULE 2

(sections 4(3) and 11(4))

THE COUNCIL AND BOARDS

PART 1

Provisions Common to the Council and the Boards

1. A member of the Council or of a Board shall be appointed or elected, as the case may be, for a period of one year beginning on such day as may be determined by the Minister.
2. A member of the Council or of a Board may resign his office at any time by notice in writing given to the Minister.
3. The Minister may declare the office of a member of the Council or of a Board vacant if he is satisfied that the member—
 - (a) is unable through mental or physical incapacity or absence from Bermuda to perform the functions his office;
 - (b) has failed, without adequate cause, to attend three successive meetings of the Council or Board;
 - (c) has been sentenced to imprisonment for the commission of a criminal offence;
 - (d) has had his name removed from the register under section 20.
4.
 - (1) A person appointed or elected to fill the place of a member of the Council or of a Board before the end of the member's term of office shall hold office only so long as the vacating member would have held office.
 - (2) Where the place of a member of the Council or of a Board becomes vacant before the end of his term of office and the unexpired portion of his term of office is less than three months, the vacancy need not be filled.
5. A person who has held office as a member of the Council or of a Board shall be eligible for re-appointment or re-election, as the case may be.
6. The Council or a Board may act notwithstanding any vacancy in its membership, and no act of the Council or of a Board shall be deemed to be invalid only by reason of a defect in the appointment or election of a member thereof.
7. Subject to the foregoing provisions of this Schedule, the Council and a Board may determine its quorum and procedure.

8. A member of the Council or of a Board 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 or the Board's functions, as the case may be, under this Act, unless the act or omission was done or made in bad faith.

PART 2

Special Provisions Relating to the Council

1. There shall be not less than two Council meetings in each calendar year.
2. Subject to paragraph 3, 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.
3. A member of the Council shall be appointed as the Chairman of any committee appointed under paragraph 2.

PART 3

Special Provisions Relating to the Boards

1. Boards shall meet as often as may be necessary for them to dispatch their business under this Act.
2. A minute shall be made of every decision of a Board in such form as the Minister may direct.
3. (1) Where any matter is before a Board under section 15, a member of the Board may, with the leave of the Chairman, withdraw on the ground that he is personally acquainted with the facts of the case or for any other reason which the Chairman deems sufficient and the Chairman may himself withdraw on any such ground.
(2) Where a member has so withdrawn, the Chairman may request the Minister to appoint some person, who need not be a practitioner of a specified profession, to be a member of the Board for the purpose of those proceedings, and the Minister may, if he thinks fit, make such an appointment, whereupon the person so appointed shall be deemed to be a member of the Board for such purpose.
4. The election of members to a Board shall be conducted in such manner as the Minister may approve and any dispute as to who is, or who is not, entitled to vote at such an election shall be determined by the Minister.
5. In any matter before a Board, the Chairman or person acting as Chairman shall have a deliberative as well as a casting vote.
6. For the purposes of this Schedule, a reference to a member or the membership of the Council or of a Board shall, unless the context requires otherwise, be construed as including the Chairman.

SCHEDULE 3

(section 22(1) and (7))

ALLIED HEALTH PROFESSIONAL CONDUCT COMMITTEE

1. The Committee shall consist of three members appointed by the Minister, as follows—

- (a) two from a list of at least six registered practitioners in good standing who are nominated by the Council; and
- (b) one professionally qualified person who need not be a registered practitioner.

2. Where a question or matter to be determined by the Committee concerns a registered practitioner or assistant whose profession is not represented on the Committee constituted under paragraph 1, the Council shall appoint a registered practitioner or assistant in good standing from the profession not represented on the Committee as a co-opted member of the Committee for the purpose of the determination of that question or matter.

3. A person who is a member of the Council may not be appointed as a member of the Committee.

4. Appointment as a member under paragraph 1 shall be made for a term not exceeding three years and a member is eligible for re-appointment.

5. The Minister may appoint a second person to act as alternate to a member appointed under paragraph 1.

6. 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.

7. The Minister shall appoint a member of the Committee to be the Chairman, who shall—

- (a) preside at Committee meetings; and
- (b) perform any other functions assigned to him in accordance with this Act.

8. If at any time the Chairman ceases to be a member of the Committee, or for any other reason ceases to be the Chairman, the Minister shall, as soon as may be, appoint from among the members of the Committee another person to be Chairman in his stead.

9. Three members of the Committee shall form a quorum at any meeting.

10. (1) Where any complaint is before the Committee, a member of the Committee shall advise the Chairman if he is personally acquainted with the facts of the case and may, with leave of the Chairman, withdraw on that ground or for any other reason which the Chairman deems sufficient; and the Chairman may himself withdraw on any such ground.

(2) Where a member has so withdrawn, the Chairman may request the Chairman of the Council to nominate a member of equal standing as the withdrawn member to be a member of the Committee for the purpose of those proceedings, and the Minister may make such appointment, whereupon the person so appointed shall be deemed to be a member of the Committee for such purpose.

11. A minute shall be made of every meeting of the Committee in such form as the Minister may direct.

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

13. 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.

14. The Committee shall, as soon as practicable after the end of each calendar year, submit a report on its activities for the preceding year to the Council.

15. A member of the Committee may resign his office at any time by giving notice in writing to the Minister of his resignation.

16. The Minister may declare the office of a member of the Committee vacant, if—

- (a) the Minister is satisfied that the member is unable through mental or physical incapacity to perform the functions of his office; or
- (b) the member has failed without adequate cause to attend three successive meetings of the Committee.

17. Where a member's place becomes vacant before the expiration of his term, the vacancy shall be filled in the same manner as that by which he became a member.

18. A person appointed or selected to fill the place of a member of the Committee who vacates office before the expiry of his term of office shall hold office for only so long as the member whose place he fills would have held office.

19. Where a member of the Committee vacates his office three months or less before the expiry of his term of office, the vacancy need not be filled.

20. Subject to this Act, the Committee shall regulate its own proceedings.

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

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SCHEDULE 4

(section 34)

FEES

| | | |
|-----|--|-------|
| (1) | Applying for registration to practise a specified profession under section 15 | \$165 |
| (2) | Applying for renewal of registration to practise a specified profession under section 17 | \$110 |
| (3) | Fee for late renewal of registration to practise a specified profession | \$50 |
| (4) | Requesting a certificate of professional standing regarding a person practising a specified profession | \$25 |
| (5) | Requesting a duplicate copy of registration certificate after issuance | \$25 |

[Schedule 4 inserted by 2020 : 47 s. 10 effective 11 December 2020]

[Assent Date: 31 December 2018]

[Operative Date: 31 December 2018]

[Amended by:
2020 : 47]