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HEALTH PROFESSIONS ACT

Ss.

Act No. 56 of 1974

HEALTH PROFESSIONS ACT, 1974
(ACT No. 56 OF 1974)

[Previous short title, "Medical, Dental and Supplementary Health Service Professions Act", substituted by s. 65 of Act 89 of 1997]

[ASSENTED TO 9 OCTOBER 1974]

[DATE OF COMMENCEMENT: 21 FEBRUARY 1975]

(Afrikaans text signed by the State President)

as amended by

General Law Amendment Act, No. 57 of 1975
Medical, Dental and Supplementary Health Service Professions
Amendment Act, No. 33 of 1976
Health Laws Amendment Act, No. 36 of 1977
Medical, Dental and Supplementary Health Service Professions
Amendment Act, No. 52 of 1978
Medical, Dental and Supplementary Health Service Professions
Amendment Act, No. 43 of 1980
Medical, Dental and Supplementary Health Service Professions
Amendment Act, No. 66 of 1981
Medical, Dental and Supplementary Health Service Professions
Amendment Act, No. 38 of 1982
Medical, Dental and Supplementary Health Service Professions
Amendment Act, No. 58 of 1984
Transfer of Powers and Duties of the State President
Act, No. 97 of 1986
Medical, Dental and Supplementary Health Service Professions
Amendment Act, No. 79 of 1990
Medical, Dental and Supplementary Health Service Professions
Amendment Act, No. 58 of 1992
Medical Schemes Amendment Act, No. 23 of 1993
Medical, Dental and Supplementary Health Service Professions
Amendment Act, No. 18 of 1995
Abolition of Restrictions on the Jurisdiction of Courts
Act, No. 88 of 1996
Extension of Terms of Office of Members of Certain Councils
Act, No. 45 of 1997
Medical, Dental and Supplementary Health Service Professions
Amendment Act, No. 89 of 1997
Medical, Dental and Supplementary Health Service Professions
Amendment Act, No. 1 of 1998

further amended by

Medicines and Related Substances Control Amendment Act, No. 94 of 1991
[with effect from a date to be proclaimed]

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A C T

To establish the Health Professions Council of South Africa; to provide for control over the training, registration and practices of practitioners of health professions; and to provide for matters incidental thereto.

[Long title substituted by s. 13 of Act 18 of 1995 and by s. 66 of Act 89 of 1997.]

Definitions

1. In this Act, unless the context otherwise indicates-

"Ciskeian Medical Council"

[Definition of "Ciskeian Medical Council" inserted by s. 1 (a) of Act 18 of 1995 and deleted by s. 1 (a) of Act 89 of 1997.]

"council" means the council referred to in section 2;

"dentist" means a person registered as such under this Act;

"Director-General" means the Director-General: Health or his or her nominee;

[Definition of "Director-General" inserted by s. 1 (b) of Act 18 of 1995.]

"impaired" means a mental or physical condition, or the abuse of or dependence on chemical substances, which affects the competence, attitude, judgement or performance of a student or a person registered in terms of this Act;

[Definition of "impaired" inserted by s. 1 (b) of Act 89 of 1997.]

"Interim National Medical and Dental Council of South Africa" means the Interim National Medical and Dental Council of South Africa referred to in section 2 of this Act prior to its amendment by the Medical, Dental and Supplementary Health Service Professions Amendment Act, 1997;

[Definition of "Interim National Medical and Dental Council of South Africa" inserted by s. 1 (b) of Act 89 of 1997.]

"intern" means a person registered as such under this Act;

"intern-psychologist" means a person registered as such under this Act;

[Definition of "intern-psychologist" inserted by s. 1 of Act 33 of 1976.]

"medical practitioner" means a person registered as such under this Act;

"medicine" means medicine as defined in section 1 of the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965);

"medicinal purposes" in relation to a scheduled substance, means the purpose of treatment or prevention of a disease or some other definite curative or therapeutic purpose, but does not include the satisfaction or relief of a habit or a craving for the substance used or for any other scheduled substance except where the substance

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is administered or used in a hospital or similar institution maintained wholly or partly by the Government or a provincial administration, or approved for that purpose by the Minister;

[Definition of "medicinal purposes" substituted by s. 1 (a) of Act 58 of 1992.]

"member" means a member of the council;

"Minister" means the Minister of Health;

[Definition of "Minister" substituted by s. 1 (a) of Act 58 of 1984, by s. 1 (b) of Act 58 of 1992 and by s. 1 (c) of Act 18 of 1995.]

"prescribe" means prescribe by regulation and **"prescribed"** shall have a corresponding meaning;

"president" means the president of the council;

"professional board" means a professional board established in terms of any of the provisions of section 15;

"psychologist" means a person registered as such under this Act;

"qualification" means any degree, diploma or certificate awarded after examination of a person's proficiency in a particular subject;

"register", when used as a verb, means to enter in a register, the words **"registered"**, **"registrable"**, **"registration"** and all other words formed with or derived from the word **"register"** having a corresponding meaning;

"register", when used as a noun, means a register kept in accordance with the provisions of this Act, and when used in relation to any class or a member of any class of persons in respect of which a register is kept, means the register kept for that class;

"registrar" means the registrar appointed under section 12 or a person lawfully acting in that capacity;

"regulation" means any regulation made under this Act;

"Republic"

[Definition of "Republic" deleted by s. 1 (c) of Act 58 of 1992.]

"rule" means any rule made under this Act;

"scheduled substance" means a scheduled substance as defined in section 1 of the Medicines and Related Substances Act, 1965 (Act 101 of 1965);

[Definition of "scheduled substance" substituted by s. 1 (c) of Act 89 of 1997.]

"South African Medical and Dental Council"

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[Definition of "South African Medical and Dental Council" inserted by s. 1 (d) of Act 18 of 1995 and deleted by s. 1 (d) of Act 89 of 1997.]

"speciality", in relation to a medical practitioner, dentist or psychologist, includes any particular subdivision of a speciality in which such medical practitioner, dentist or psychologist specializes or intends to specialize;

[Definition of "speciality" inserted by s. 1 of Act 38 of 1982.]

"student intern" means a person registered as such under this Act;

[Definition of "student intern" inserted by s. 12 of Act 36 of 1977.]

"supplementary health service profession"

[Definition of "supplementary health service profession" deleted by s. 1 (e) of Act 89 of 1997.]

"tariff of fees"

[Definition of "tariff of fees" inserted by s. 1 of Act 52 of 1978 and deleted by s. 1 (b) of Act 58 of 1984.]

"this Act" includes the regulations, rules and any proclamation or order issued or made under this Act;

"Transkeian Medical Council"

[Definition of "Transkeian Medical Council" inserted by s. 1 (e) of Act 18 of 1995 and deleted by s. 1 (f) of Act 89 of 1997.]

"unprofessional conduct" means improper or disgraceful or dishonourable or unworthy conduct or conduct which, when regard is had to the profession of a person who is registered in terms of this Act, is improper or disgraceful or dishonourable or unworthy;

[Definition of "unprofessional conduct" inserted by s. 1 (g) of Act 89 of 1997.]

"vice-president" means the vice-president of the council.

CHAPTER I

ESTABLISHMENT, OBJECTS, FUNCTIONS AND POWERS OF THE HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA

[Heading substituted by s. 2 of Act 18 of 1995 and by s. 2 of Act 89 of 1997.]

Establishment of Health Professions Council of South Africa

2. (1) There is hereby established a juristic person to be known as the Health Professions Council of South Africa and the first meeting of the council shall be convened by the registrar.

(2) The head office of the council shall be situated in Pretoria.

[S. 2 substituted by s. 3 of Act 18 of 1995 and by s. 3 of Act 89 of 1997.]

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Objects of council

3. The objects of the council are-

- (a) to co-ordinate the activities of the professional boards established in terms of this Act and to act as an advisory and communicatory body for such professional boards;
- (b) to promote and to regulate interprofessional liaison between registered professions in the interest of the public;
- (c) to determine strategic policy, and to make decisions in terms thereof, with regard to the professional boards and the registered professions, for matters such as finance, education, registration, ethics and professional conduct, disciplinary procedure, scope of the professions, interprofessional matters and maintenance of professional competence;
- (d) to consult and liaise with relevant authorities on matters affecting the professional boards in general;
- (e) to assist in the promotion of the health of the population of the Republic;
- (f) subject to the provisions of section 15A of this Act, the Nursing Act, 1978 (Act No. 50 of 1978), the Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982 (Act No. 63 of 1982), and the Pharmacy Act, 1974 (Act No. 53 of 1974), to control and to exercise authority in respect of all matters affecting the training of persons in, and the manner of the exercise of the practices pursued in connection with, the diagnosis, treatment or prevention of physical or mental defects, illnesses or deficiencies in human kind;
- (g) to promote liaison in the field of training referred to in paragraph (f), both in the Republic and elsewhere, and to promote the standards of such training in the Republic;
- (h) to advise the Minister on any matter falling within the scope of this Act in order to support the universal norms and values of health professions, with greater emphasis on professional practice, democracy, transparency, equity, accessibility and community involvement; and
- (i) to communicate to the Minister information of public importance acquired by the council in the course of the performance of its functions under this Act.

[S. 3 substituted by s. 3 of Act 56 of 1974, amended by s. 2 of Act 58 of 1992, s. 4 of Act 18 of 1995 and further substituted by s. 4 of Act 89 of 1997.]

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General powers of council

4. The council may-

- (a) acquire, hire or dispose of property, borrow money on the security of the assets of the council and accept and administer any trust or donation;
- (b) render financial assistance to professional boards in order to enable such boards to perform their functions;
- (c) consider any matter affecting the professions registrable with the council generally, and make representations or take such action in connection therewith as the council deems advisable;
- (d) make rules on all matters which the council considers necessary or expedient in order that the objects of this Act may be achieved;
- (e) delegate to any committee or any person such of its powers as it may from time to time determine, but shall not be divested of any power so delegated; and
- (f) perform such other functions as may be prescribed, and generally, do all such things as the council deems necessary or expedient to achieve the objects of this Act.

[S. 4 substituted by s.5 of Act 89 of 1997.]

Constitution of council

5. (1) The council shall be representative and shall consist of the following members, namely-

- (a) not more than 25 persons designated by the professional boards, on a basis proportional to the number of persons registered to practice the professions falling under each professional board: Provided that each professional board shall be entitled to designate at least one person registered in terms of this Act;
- (b) one person in the employment of the Department of Health, appointed by the Minister;
- (c) one person in the employment of the Department of Education, appointed by the Minister of Education;
- (d) nine persons registered in terms of this Act, appointed by the Minister;

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- (e) one person from the South African Medical Services, appointed by the Minister of Defence;
- (f) three persons appointed by the Committee of University Principals;
- (g) two person appointed by the Committee of Technikon Principals;
- (h) nine public representatives, one from each province, appointed by the Member of the Executive Council responsible for health in each province: Provided that such representatives shall not be persons registered in terms of this Act; and
- (i) one person versed in law, appointed by the Minister.

(2) Subject to the provisions of section 6, the members of the council shall hold office for a period of five years, but shall be eligible for redesignation or reappointment for one more term.

(3) Not less than three months prior to the date of expiring of the term of office of the members of the council, the persons and bodies referred to in subsection (1), except the Minister, shall inform the registrar in writing of the names of the persons to be designated or appointed by them in terms of that subsection.

(4) As soon as possible after the process referred to in subsection (3), the Minister shall inform the registrar of the names of the persons to be appointed by the Minister in terms of subsection (1).

(5) If any of the persons or bodies referred to in subsection (1) except the Minister, fails to make a designation or an appointment or to inform the registrar in terms of subsection (3) of the names of the persons to be designated or appointed by them, the Minister shall make the necessary designation or appointment, and any designation or appointment so made by the Minister shall be deemed to have been properly made in terms of the appropriate paragraph of subsection (1).

(6) The names of the members of the council and the date of commencement of their term of office shall be published by the registrar in the *Gazette* as soon as possible after the constitution of the council.

[S. 5 amended by s. 5 of Act 56 of 1974, by s. 2 of Act 52 of 1978, by s. 2 of Act 58 of 1984, by s. 1 of Act 79 of 1990, by s. 3 of Act 58 of 1992 and substituted by s. 5 of Act 18 of 1995 and amended by s. 4 of Act 45 of 1997 and further substituted by s. 6 of Act 89 of 1997.]

Vacation of office and filling of vacancies

6. (1) A member of the council shall vacate his or her office if-

- (a) his or her estate is sequestrated or he or she has entered into a composition with the creditors of his or her estate;

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- (b) he or she has been absent from more than two consecutive ordinary meetings of the council without the council's leave;
- (c) he or she is or becomes disqualified under this Act from practising his or her profession;
- (d) he or she ceases to hold any qualification necessary for his or her designation or appointment or tenders his or her resignation in writing to the person or body by whom he or she was designated or appointed and that person or body accepts his or her resignation;
- (e) he or she ceases to be a South African citizen;
- (f) he or she becomes a patient as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973);
- (g) he or she is convicted of an offence in respect whereof he or she is sentenced to imprisonment without the option of a fine; or
- (h) the Minister, in the public interest and for just cause, and after consultation with the person or body by whom the member was designated or appointed, terminates his or her membership.

(2) Every vacancy on the council arising from a circumstance referred to in subsection (1) and every vacancy caused by the death of a member, shall be filled by designation or appointment by the person or body by whom and in the manner in which the vacating member was designated or appointed, and every member so designated or appointed shall hold office for the unexpired portion of the period for which the vacating member was designated or appointed.

[S. 6 amended by s. 46 of Act 97 of 1986, s. 4 of Act 58 of 1992, s. 6 of Act 18 of 1995 and substituted by s. 6 of Act 89 of 1997.]

President and vice-president

7. (1) At the first meeting of every newly constituted council the members of the council shall elect a president and a vice-president from among themselves.

(2) The president and vice-president shall hold office during the term of office of the members of the council unless the president or vice-president shall sooner resign or cease to be a member of the council.

(3) The vice-president may, if the president is absent or for any reason unable to act as president, perform all the functions and exercise all the powers of the president.

(4) If both the president and vice-president are absent from any meeting, the members present shall elect one of their number to preside at that meeting and the person so

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presiding may, during that meeting and until the president or the vice-president resumes duty, perform all the functions and exercise all the powers of the president.

(5) If both the president and the vice-president have been given leave of absence, the members of the council shall elect one of their number to act as president until the president or the vice-president resumes duty or vacates office.

(6) If the office of president or vice-president becomes vacant, the members of the council shall, at the first meeting after such vacancy occurs or as soon thereafter as may be convenient, elect from among themselves a new president or vice-president, as the case may be, and the member so elected shall hold office for the unexpired portion of the period for which his predecessor was elected.

(7) A president or a vice-president may vacate office as such without such vacation by itself terminating his membership of the council.

Meetings of the council

8. (1) The council shall hold at least two meetings in each year at venues to be determined by the council, and may in addition hold such further meetings as the council may from time to time determine.

(2) The president may at any time convene a special meeting of the council, to be held on such date and at such place as he may determine and he shall, upon a written request by the Minister or a written request signed by at least six members, convene a special meeting to be held, within thirty days after the date of receipt of the request, on such date and at such place as he may determine: Provided that such written request shall state clearly the purpose for which the meeting is to be convened.

Quorum and procedure at meetings

9. (1) The majority of the members of the council shall constitute a quorum at any meeting of the council.

[Sub-s. (1) substituted by s. 7 of Act 18 of 1995.]

(2) A decision of the majority of the members of the council present at any meeting shall constitute a decision of the council: Provided that in the event of an equality of votes the member presiding shall have a casting vote in addition to a deliberative vote.

(3) No decision taken by the council or act performed under authority of the council shall be invalid by reason only of an interim vacancy on the council or of the fact that a person who is not entitled to sit as a member of the council sat as a member at the time when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members of the council who were present at the time and entitled to sit as members.

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Committees

10. (1) (a) The council may from time to time establish such committees, including disciplinary committees, as it may deem necessary, each consisting of so many persons, appointed by the council, as the council may determine but including, except in the case of a disciplinary appeal committee referred to in subsection (2), at least one member of the council, who shall be the chairperson of such committee.

(b) The council may, subject to the provisions of subsection (3), delegate to any committee so established or to any person some of its powers as it may from time to time determine, but shall not be divested of any power so delegated.

(2) The council shall from time to time, as the need arises, establish *ad hoc* disciplinary appeal committees, each consisting of, as chairperson, a retired judge or retired senior magistrate, or an attorney or advocate with at least 10 years' experience, not more than two registered persons drawn from the profession of the registered person in respect of whose conduct a disciplinary committee of a professional board had held an inquiry, and a member of the council appointed to represent the community, which member shall not be a registered person.

(3) A disciplinary appeal committee referred to in subsection (2) shall have the power to vary, confirm or set aside a finding of a disciplinary committee established in terms of subsection (1) or to refer the matter back to the disciplinary committee with such instructions as it may deem fit.

(4) A decision of a disciplinary committee, unless appealed against, shall be of force and effect from the date determined by the disciplinary committee.

(5) Where a matter has been considered by a disciplinary appeal committee the decision of the disciplinary appeal committee, unless appealed against, shall be of force and effect from the date determined by the disciplinary appeal committee.

(6) The council may, after consultation with one or more professional boards, establish a joint standing committee of the council and the board or boards.

[S. 10 amended by s. 3 of Act 58 of 1984, by s. 5 of Act 58 of 1992 and by s. 8 of Act 18 of 1995 and substituted by s. 8 of Act 89 of 1997.]

11.

[S. 11 amended by s. 3 of Act 52 of 1978, by s. 4 of Act 58 of 1984, by s. 2 of Act 79 of 1990 and by s. 6 of Act 58 of 1992 and repealed by s. 9 of Act 89 of 1997.]

Appointment of registrar and staff

12. (1) The council shall appoint a registrar and may appoint such other persons as it may deem necessary for carrying out its functions under this Act, and may dismiss any of such other persons.

[Sub-s. (1) substituted by s. 9 (a) of Act 18 of 1995.]

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(2) The registrar shall be the secretary of the council and of each professional board and he or she shall perform the functions and carry out the duties assigned to or imposed upon him or her in terms of this Act as well as such functions and duties as may from time to time be assigned to or imposed upon him or her by the council.

[Sub-s. (2) substituted by s. 10 (a) of Act 89 of 1997.]

(2A) The registrar may in writing authorise any member of his or her staff to exercise or perform any power, duty or function conferred or imposed on him or her by or in terms of this Act.

[Sub-s. (2A) inserted by s. 10 (b) of Act 89 of 1997.]

(3) The appointment or dismissal of the registrar shall be subject to the approval of the Minister.

(4)

[Sub-s. (4) deleted by s. 9 (b) of Act 18 of 1995.]

Financing of council

13. (1) All registration and examination fees and any other fees payable under this Act shall, unless otherwise provided, be paid to the council and shall constitute its funds and the council shall utilize its funds for defraying expenses incurred in connection with the performance of its functions.

[Sub-s. (1) substituted by s. 4 of Act 52 of 1978, amended by s. 3 of Act 79 of 1990 and substituted by s. 11 of Act 89 of 1997.]

(2) The council may invest any unexpended portion of its moneys and may establish such reserve funds and pay therein such amounts as it may deem necessary or expedient.

13A.

[S. 13A inserted by s. 5 of Act 52 of 1978 and repealed by s. 4 of Act 79 of 1990.]

Minister may rectify defects

14. If anything required to be done under this Act in connection with the appointment of any member is omitted or not done within the time or in the manner required by this Act, the Minister may order all such steps to be taken as may be necessary to rectify the omission or error or may validate anything done in an irregular manner or form, in order to give effect to the objects of this Act.

[S. 14 substituted by s. 10 of Act 18 of 1995.]

Establishment of professional boards

15. (1) The Minister shall, on the recommendation of the council, establish a professional board with regard to any profession in respect of which a register is kept in terms of this Act, or with regard to two or more such professions.

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(2) The Minister may, on the recommendation of the council, change the professional boards with regard to the professions for which the boards have been established, and establish other boards.

(3) Before making a recommendation as contemplated in subsection (2), the council shall consult with any body which is or persons who are in the opinion of the council representative of the majority of persons to be affected by such change or establishment.

(4) The Minister may, on the recommendation of the council, make regulations relating to the constitution, functions and functioning of a professional board.

(5) Regulations relating to the constitution, functions and functioning of a professional board shall at least provide for-

- (a) the majority of the members of a professional board to be elected by the members of the profession involved;
- (b) persons representing the community to comprise not less than 20 per cent of the membership of a professional board, with a minimum of one such representative for every profession;
- (c) relevant educational institutions to be represented;
- (d) the health authorities to be represented;
- (e) one or more persons versed in law to be appointed, where appropriate;
- (f) the establishment by a professional board of such committees as it may deem necessary, each consisting of so many persons appointed by the board as the board may determine, but including at least one member of the board who shall be the chairperson of such committee, and the delegation to any person or any committee so established, such of its powers as it may from time to time determine, but shall not be divested of any power so delegated;
- (g) the procedure to be followed for the appointment and election, as the case may be, of the members of a professional board;
- (h) the election of a chairperson and vice-chairperson by the members of a professional board and the powers and functions of such a chairperson and vice-chairperson; and
- (i) the term of office of the members of a professional board.

[S. 15 amended by s. 46 (1) of Act 57 of 1975 and by s. 11 of Act 18 of 1995 and substituted by s. 12 of Act 89 of 1997.]

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Objects of professional boards**15A.** The objects of a professional board are-

- (a) to consult and liaise with other professional boards and relevant authorities on matters affecting the professional board;
- (b) to assist in the promotion of the health of the population of the Republic on a national basis;
- (c) subject to the provisions of section 3 of this Act, the Nursing Act, 1978 (Act 50 of 1978), the Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982 (Act 63 of 1982), and the Pharmacy Act, 1974 (Act 53 of 1974), to control and to exercise authority in respect of all matters affecting the training of persons in, and the manner of the exercise of the practices pursued in connection with, any profession falling within the ambit of the professional board;
- (d) to promote liaison in the field of the training contemplated in paragraph (c), both in the Republic and elsewhere, and to promote the standards of such training in the Republic;
- (e) to advise the Minister on any matter falling within the scope of this Act as it relates to any profession falling within the ambit of the professional board in order to support the universal norms and values of the profession, with greater emphasis on professional practice, democracy, transparency, equity, accessibility and community involvement;
- (f) to communicate to the Minister information on matters of public importance acquired by the professional board in the course of the performance of its functions under this Act;
- (g) to maintain and enhance the dignity of the profession and the integrity of the persons practising the profession; and
- (h) to guide the profession and to protect the public.

[S. 15A inserted by s. 13 of Act 89 of 1997.]

General powers of professional boards**15B.** (1) A professional board may-

- (a) in such circumstances as may be prescribed, or where otherwise authorised by this Act, remove any name from a register or, upon payment of the prescribed fee, restore thereto, or suspend a registered person from practising his or her profession pending the institution of a

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formal inquiry in terms of section 41;

- (b) appoint examiners and moderators, conduct examinations and grant certificates, and charge such fees in respect of such examinations or certificates as may be prescribed;
- (c) subject to prescribed conditions, approve training schools;
- (d) consider any matter affecting any profession falling within the ambit of the professional board and make representations or take such action in connection therewith as the professional board deems advisable;
- (e) upon application by any person, recognise any qualification held by him or her (whether such qualification has been obtained in the Republic or elsewhere) as being equal, either wholly or in part, to any prescribed qualification, whereupon such person shall, to the extent to which the qualification has so been recognised, be deemed to hold such prescribed qualification;
- (f) after consultation with another professional board or boards, establish a joint standing committee or committees of the boards concerned; and
- (g) perform such other functions as may be prescribed, and generally, do all such things as the professional board deems necessary or expedient to achieve the objects of this Act in relation to a profession falling within the ambit of the professional board.

(2) Any decision of a professional board relating to a matter falling entirely within its ambit shall not be subject to ratification by the council, and the council shall, for this purpose, determine whether a matter falls entirely within the ambit of a professional board.

[S. 15B inserted by s. 13 of Act 89 of 1997.]

CHAPTER II**TRAINING AND REGISTRATION****Control over training**

16. (1) Notwithstanding anything to the contrary in any other law contained but subject to the provisions of the Nursing Act, 1978 (Act 50 of 1978), no person or educational institution, excluding a university or a technikon, may offer or provide any training having as its object to qualify any person for the practising of any profession to which the provisions of this Act apply or for the carrying on of any other activity directed to the

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mental or physical examining of any person or to the diagnosis, treatment or prevention of any mental or physical defect, illness or deficiency in man, unless such training has been approved by the professional board concerned.

[Sub-s. (1) substituted by s. 7 of Act 58 of 1992 and amended by s. 14 (a) of Act 89 of 1997.]

(2) Any person or educational institution wishing to offer such training as is referred to in subsection (1) shall, before offering such training, apply to the professional board concerned in writing for its approval of such training and shall furnish such particulars regarding such training as the professional board concerned may require.

[Sub-s. (2) amended by s. 14 (a) of Act 89 of 1997.]

(3) The professional board concerned may grant or refuse any application made in terms of subsection (2) and, having granted such application, may prescribe such conditions and requirements as it may deem fit subject to which the training in question may be provided.

[Sub-s. (3) amended by s. 14 (a) of Act 89 of 1997.]

(4)

[Sub-s. (4) deleted by s. 53 of Act 88 of 1996.]

(5) Any person who contravenes or fails to comply with any provision of this section shall be guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Sub-s. (5) amended by s. 14 (b) of Act 89 of 1997.]

Registration a prerequisite for practising

17. (1) No person shall be entitled to practice within the Republic-

(a) the profession of a medical practitioner, dentist, psychologist or as an intern or an intern psychologist or any profession registrable in terms of this Act; or

[Par. (a) substituted by s. 2 of Act 33 of 1976 and by s. 15 (a) of Act 89 of 1997.]

(b) except in so far as it is authorized by the provisions of the Nursing Act, 1978 (Act 50 of 1978), the Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982 (Act 63 of 1982), the Pharmacy Act, 1974 (Act 53 of 1974), and sections 33, 34 and 39 of this Act, for gain any other profession the practice of which mainly consists of-

(i) the physical or mental examination of persons;

(ii) the diagnosis, treatment or prevention of physical or mental defects, illnesses or deficiencies in man;

(iii) the giving of advice in regard to such defects, illnesses or deficiencies; or

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- (iv) the prescribing or providing of medicine in connection with such defects, illnesses or deficiencies,

[Par. (b) amended by s. 8 of Act 58 of 1992 and by s. 15 (b) of Act 89 of 1997.]

unless he is registered in terms of this Act.

(2) Every person desiring to be registered in terms of this Act shall apply to the registrar and shall submit the qualification which, in his or her submission, entitles him or her to registration, together with such proof of identity and good character and of the authenticity and validity of the qualifications submitted as may be required by the professional board concerned.

[Sub-s. (2) substituted by s. 15 (c) of Act 89 of 1997.]

(3) If the registrar is satisfied that the qualification and the other documents submitted in support of the application satisfy the requirements of this Act, he shall, upon payment by the applicant of the prescribed registration fee, issue a registration certificate authorizing the applicant, subject to the provisions of this Act or of any other law, to practice the profession in respect whereof he has applied for registration, within the Republic.

[Sub-s. (3) substituted by s. 47 (1) of Act 57 of 1975.]

(4) If the registrar is not satisfied that the qualification or other documents submitted in support of the application satisfy the requirements of this Act, he or she shall refuse to issue a registration certificate to the applicant, but shall, if so required by the applicant, submit the application to the professional board concerned for decision.

[Sub-s. (4) substituted by s. 15 (d) of Act 89 of 1997.]

Keeping of registers

18. (1) The registrar shall keep registers in respect of medical practitioners, dentists, interns, student interns, medical students, dental students, psychologists, intern-psychologists and psychology students or any other health professionals as determined by the council and persons doing community service in terms of section 24A and shall, on the instructions of the professional board, enter in the appropriate register the name, physical address, qualifications, date of initial registration and such other particulars (including, in the case of medical practitioners, dentists and psychologists, the name of their speciality or category, if any) as the professional board may determine, of every person whose application for registration in terms of section 17 (2) has been granted.

[Sub-s. (1) substituted by s. 48 (1) of Act 57 of 1975, by s. 3 of Act 33 of 1976, by s. 13 of Act 36 of 1977, by s. 9 (a) of Act 58 of 1992 and by s. 16 (a) of Act 89 of 1997.]

(2) The registrar shall keep the registers correctly and in accordance with the provisions of this Act and shall remove therefrom the names of all registered persons who have died or whose names have to be removed in terms of this Act and shall from time to time make the necessary alterations in the addresses or qualifications of

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registered persons.

[Sub-s. (2) substituted by s. 16 (a) of Act 89 of 1997.]

(3) Every registered person who changes his address shall in writing notify the registrar thereof within thirty days after such change.

(4)

[Sub-s. (4) substituted by s. 9 (b) of Act 58 of 1992 and deleted by s. 16 (c) of Act 89 of 1997.]

(5) No qualification shall be entered in the register unless the registrar is satisfied that the person claiming to possess such qualification is entitled thereto, or if the professional board is not so satisfied; and any entry which is proved to the satisfaction of the professional board to have been made in error or through misrepresentation or in circumstances not authorized by this Act, may be removed from the register and a record of the reason for every such removal shall be made in the register, and the person in respect of whose entry such removal has been made, shall be notified thereof in the manner contemplated in section 19 (2) and any certificate issued in respect of the registration in question shall be deemed to be cancelled as from the date on which notice has so been given.

[Sub-s. (5) amended by s. 16 (c) of Act 89 of 1997.]

Removal of name from, and restoration to, register

19. (1) The professional board concerned may direct the registrar to remove from the register the name of any person-

- (a) who has been absent from the Republic during the three years immediately preceding such removal;
- (b) who has failed to notify the registrar, within a period of three months as from the date of an enquiry sent by the registrar by certified mail to the address appearing in the register in respect of such person, of his or her present address;
[Par. (b) substituted by s. 17 (a) (ii) of Act 89 of 1997.]
- (c) who has requested that his name be removed from the register, in which case such person may be required to lodge with the registrar an affidavit to the effect that no disciplinary or criminal proceedings are being or are likely to be taken against him;
- (d) who has failed to pay to the professional board, within three months as from the date on which it became due for payment, any annual fee prescribed by the professional board in terms of section 62 ;
[Par. (d) substituted by s. 17 (a) (iii) of Act 89 of 1997.]
- (e) whose name has been removed from the register, record or roll of any university, hospital, college, society or other body from which that

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person received the qualification by virtue of the holding whereof he was registered;

(f) who has been registered in error or through fraud.

[Par. (f) added by s. 10 of Act 58 of 1992.]

[Sub-s. (1) amended by s. 17 (a) (i) of Act 89 of 1997.]

(2) Notice of the removal, in terms of subsection (1), of his or her name from the register, or of the removal, in terms of section 18 (5), of an entry from the register, shall be given by the registrar to the person concerned by way of certified mail addressed to such person at the address appearing in respect of him or her in the register.

[Sub-s. (2) substituted by s. 17 (b) of Act 89 of 1997.]

(3) As from the date on which notice has been given in terms of subsection (2)-

(a) any registration certificate issued in terms of this Act to the person concerned shall be deemed to be cancelled; and

(b) such person shall cease to practice the profession in respect of which he was registered or to perform any act which he, in his capacity as a registered person, was entitled to perform,

until such time as his name or the entry removed from the register in terms of section 18 (5), as the case may be, is restored to the register.

(4) If from the documents submitted to him in terms of section 18 (3) of the Mental Health Act, 1973 (Act 18 of 1973), it appears to the judge concerned, or it is brought to his notice in any other manner, that the person to whom the documents relate is a person registered under this Act, he shall, if the said person is declared a mentally ill person as contemplated in section 19 (1) (b) of the said Mental Health Act, direct that a copy of the order declaring such person a mentally ill person be transmitted to the registrar and the registrar shall, on receipt of the said copy, remove the name of the person concerned from the register.

(5) The name of a person whose name has in terms of this section been removed from the register or an entry removed from the register in terms of section 18 (5), shall be restored to the register by the registrar upon the person concerned-

(a) applying on the prescribed form for such restoration;

(b) paying the fee prescribed in respect of such restoration (if any);

(c) in the case where his name has been removed from the register in terms of subsection (4), submitting proof to the satisfaction of the council of his discharge in terms of the provisions of the Mental Health Act, 1973, from the institution at which he had been detained;

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- (cA) paying any annual fee which was not paid and payment of an additional fee as may be decided upon; and
[Par. (cA) inserted by s. 17 (d) of Act 89 of 1997.]
- (d) complying with such other requirements as the council may determine.

(6)

[Sub-s. (6) deleted by s. 17 (e) of Act 89 of 1997.]

Right to appeal

20. (1) Any person who is aggrieved by any decision of the council, a professional board or a disciplinary appeal committee, may appeal to the appropriate High Court against such decision.

(2) Notice of appeal must be given within one month from the date on which such decision was given.

[S. 20 repealed by s. 4 of Act 33 of 1976 and inserted by s. 18 of Act 89 of 1997.]

Custody and publication of registers

21. The registers shall be kept at the office of the council and the registrar shall, at intervals to be determined by the council and according to the instructions and on the authority of the council, cause copies of the registers, or of supplementary lists showing all alterations, additions, revisions and deletions made since the last publication of the complete registers, to be printed and published.

Register as proof

22. (1) A copy of the last published issue of a register or any supplementary list purporting to be printed and published on the authority of the council shall be *prima facie* proof, in all legal proceedings, of the facts therein recorded, and the absence of the name of any person from such copy shall be proof, until the contrary is proved, that such person is not registered according to the provisions of this Act: Provided that in the case of any person whose name-

- (a) does not appear in such copy, or whose name has been added to the register after the date of the last published issue thereof, a certified copy under the hand of the registrar of the entry of the name of such person in the register, shall be proof that such person is registered under the provisions of this Act;
- (b) has been removed from the register since the date of the last published issue thereof and has not been restored thereto, a certificate under the hand of the registrar that the name of such person has been removed from the register shall be proof that such person is not registered according to the provisions of this Act.

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(2) A certificate of registration shall be evidence of registration for a period of one year only and thereafter an annual practising certificate, which shall be issued upon payment of the required annual fee and the submission of such information as may be required by the council to enable it to keep accurate statistics on human resources in the health field, shall be regarded as proof of registration.

[Sub-s. (2) added by s. 19 of Act 89 of 1997.]

Issue of duplicate registration certificate, certificate of status, extract from register or certificate by registrar

23. (1) If the registrar is satisfied-

- (a) on proof submitted by the registered person concerned, that a registration certificate has been destroyed; or
- (b) by virtue of an affidavit submitted by the registered person concerned, that a registration certificate has been lost,

he may issue a duplicate registration certificate to that person upon payment of the prescribed fee.

(2) The registrar may, upon payment of the prescribed fee, issue to any registered person a certificate of status containing particulars relating to such person's registration as well as a statement to the effect that the said person is not disqualified from practising his profession and that no disciplinary steps are pending against him in terms of this Act.

(3) The registrar may issue a certified extract from the register or a certificate under his hand as provided in section 22 to any person upon payment of the prescribed fee.

(4) A certificate may be issued subject to certain conditions imposed by the professional board concerned and such conditions shall be indicated on the certificate.

[Sub-s. (4) added by s. 20 of Act 89 of 1997.]

Qualifications prescribed for registration

24. The Minister may, on the recommendation of the council, prescribe the qualifications obtained by virtue of examinations conducted by a university, a technikon or other examining authority in the Republic, which, when held singly or conjointly with any other qualification, shall entitle any holder thereof to registration in terms of this Act if he or she has, before or in connection with or after the acquisition of the qualification in question, complied with such conditions or requirements as may be prescribed.

[S. 24 amended by s. 2 of Act 38 of 1982 and by s. 1 of Act 43 of 1980 and substituted by s. 21 of Act 89 of 1997.]

Community service

24A. (1) Notwithstanding section 24, any person registering for the first time for a

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profession listed in the regulations in terms of this Act after the commencement of the Medical, Dental and Supplementary Health Service Professions Amendment Act, 1997, shall perform remunerated medical community service for a period of one year in terms of the regulations contemplated in subsection (2) and shall, on the completion of such service, be entitled to practice the profession in question.

(2) The Minister may, after consultation with the council, make regulations concerning the performance of the service contemplated in subsection (1), including but not limited to-

- (i) the place or places at which it is to be performed;
- (ii) the conditions of employment.

[S. 24A inserted by s. 22 of Act 89 of 1997.]

Registration of persons qualified outside Republic

25. (1) The Minister may, in consultation with the council, by regulation provide that any person who holds such qualification as the council may, for the purpose of registration in a category in terms of this subsection, accept by virtue of the fact that such qualification, in the opinion of the council, indicates a satisfactory standard of professional education, may be registered in terms of this section, and thereupon the council may in its discretion, but subject to any regulations which the Minister may make, register such person.

(2) The council may require a person who holds a qualification referred to in subsection (1) and who applies for registration in terms of this section, to pass to the satisfaction of the council, on a date and at a place determined by the council, an evaluation contemplated in subsection (3) before persons appointed by the council, for the purpose of determining whether such person possesses adequate professional knowledge and skill and whether he or she is proficient in any of the official languages of the Republic.

(3) The council may from time to time determine the nature of the evaluation which shall be conducted for the purpose of subsection (2), and the fees which shall be paid by persons who present themselves for such evaluation, the requirements for admission to the evaluation, and any other matter relating to such evaluation, including the number of attempts.

(4) The Minister may, in consultation with the council, make regulations concerning the imposition of restrictions on any person registered in terms of subsection (1), subject to which he or she shall be entitled to practise the profession in question, and the lifting of such restrictions.

[S. 25 substituted by s. 23 of Act 89 of 1997.]

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Compliance with certain conditions relating to continuing education and training a prerequisite for continued registration

26. The council may from time to time make rules which prescribe-

- (a) conditions relating to continuing education and training to be undergone by persons registered in terms of this Act in order to retain such registration;
- (b) the nature and extent of continuing education and training to be undergone by persons registered in terms of this Act; and
- (c) the criteria for recognition by the council of continuing education and training courses and of education institutions offering such courses.

[S. 26 amended by s. 6 of Act 52 of 1978 and substituted by s. 24 of Act 89 of 1997.]

27.

[S. 27 repealed by s. 25 of Act 89 of 1997.]

28.

[S. 28 amended by s. 7 of Act 52 of 1978, substituted by s. 6 of Act 79 of 1990 and repealed by s. 25 of Act 89 of 1997.]

Registration of certain persons so as to enable them to give educational demonstrations

29. (1) For the purpose of promoting education or training for the practising of a profession in respect of which registration in terms of this Act is a requirement, the council may, notwithstanding the provisions of this Act, register any person not permanently resident within the Republic to practise such profession for such period as the council may determine.

(2) Any person registered in terms of subsection (1) may give demonstrations, at institutions approved for that purpose by the council, of [as the case may be, medical, dental or psychological techniques or] techniques in respect of such profession.

[S. 29 substituted by s. 2 of Act 43 of 1980 and by s. 26 of Act 89 of 1997.]

Registration of certain persons so as to enable them to engage in post-graduate studies

30. (1) Any person not permanently resident within the Republic and having such training and experience as the professional board concerned may, for the purposes of this section, deem satisfactory, may, notwithstanding the provisions of this Act, be registered by the professional board for the purposes of subsection (2) for such period, not exceeding two years, as the professional board may determine.

(2) Any person registered in terms of subsection (1) shall only be entitled to engage in

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post-graduate or post-diploma studies at such university, technikon or other training institution in the Republic as the professional board may determine.

[S. 30 substituted by s. 27 of Act 89 of 1997.]

Universities, technikons and other training institutions to furnish council with certain particulars

31. (1) Every university, technikon or educational institution at which a qualification can be obtained which entitles any holder thereof to registration under this Act, shall furnish the council on its request with full particulars as to-

- (a) the minimum age and standard of general education required of students;
- (b) the course of study, training and examinations required of a student before such qualification is granted;
- (c) the results of any examinations conducted by it,

and such other particulars relating to any of the matters specified in paragraph (a), (b) or (c) as the council may from time to time require.

[Sub-s. (1) amended by s. 28 (b) of Act 89 of 1997.]

(2) If any university, technikon or educational institution referred to in subsection (1) fails or refuses to furnish any particulars requested by the council under that subsection, or if it appears to the council that any provision of this Act is not being properly complied with by any such university, technikon or educational institution and that such improper compliance is having or may have an adverse effect on the standards of education maintained at that university, technikon or educational institution, the Minister may, on the recommendation of the council, by notice in the *Gazette* declare that any specified qualification granted by such university, technikon or educational institution after a date specified in the notice shall not entitle any holder thereof to registration under this Act.

[Sub-s. (2) amended by ss. 46 and 47 of Act 97 of 1986 and substituted by s. 28 (c) of Act 89 of 1997.]

(3) The Minister may, when it has been made to appear to him or her upon representations made by the council that satisfactory provision has been made for complying with the requirements of this Act by any university, technikon or educational institution in respect of any qualification which is the subject of a notice issued under subsection (2), repeal the said notice.

[Sub-s. (3) amended by ss. 46 and 47 of Act 97 of 1986 and substituted by s. 28 (c) of Act 89 of 1997.]

(4) A qualification specified in a notice issued under subsection (2) which has been granted by the university, technikon or educational institution to which such notice relates between the date specified in that notice and the date of the repeal of that notice, shall not entitle the holder thereof to registration under this Act.

[Sub-s. (4) amended by s. 47 of Act 97 of 1986 and substituted by s. 28 (c) of Act 89 of 1997.]

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(5) The council may appoint a person to be present whenever tests are being conducted by any university, technikon or educational institution in respect of the academic progress made by students at such university, technikon or educational institution and to report to the council upon such tests.

[Sub-s. (5) substituted by s. 28 (c) of Act 89 of 1997.]

[S. 31 amended by s. 28 (a) of Act 89 of 1997.]

32.

[S. 32 substituted by s. 5 of Act 33 of 1976, amended by s. 14 of Act 36 of 1977 and by s. 11 of Act 58 of 1992 and repealed by s. 29 of Act 89 of 1997.]

32A.**32B.**

[Ss. 32A and 32B inserted by s. 15 of Act 36 of 1977 and repealed by s. 29 of Act 89 of 1997.]

Definition of scope of other health professions registrable in terms of this Act and registration of certain persons

33. (1) The Minister may, on the recommendation of the council, by regulation define the scope of any other health profession registrable in terms of this Act by specifying the acts which shall for the purposes of the application of this Act be deemed to be acts pertaining to that profession: Provided that such regulation shall not be made unless the professional board established in terms of section 15 in respect of any profession which may in the opinion of the Minister be affected by such regulation, has been given an opportunity of submitting, through the council, representations as to the definition of the scope of the profession in question: Provided further that if there is a difference of opinion between the council and such professional board as to the definition of the scope of the profession concerned, the council shall mention this fact in its recommendation.

[Sub-s. (1) substituted by s. 30 (b) of Act 89 of 1997.]

(2) When a professional board has been established under section 15 in respect of any other health profession, the professional board shall, subject to such restrictions in respect of his or her professional activities as it may determine, register in respect of such profession, the name of any person who-

- (a)
 - (i) was engaged in the practice of such profession in the Republic or in a territory which formerly formed part of the Republic for a continuous period of not less than five years immediately prior to the date referred to in paragraph (c);
[Sub-par. (i) substituted by s. 3 (b) of Act 43 of 1980.]
 - (ii) is dependent, wholly or mainly, for his livelihood on the practice of such profession; and
 - (iii) submits a certificate by such professional board stating that he is of good character;

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(b)

[Par. (b) deleted by s. 3 (c) of Act 43 of 1980.]

(c) submits to the professional board an application in the prescribed form containing proof to the satisfaction of the professional board of the facts referred to in paragraph (a) (i) and (ii), within six months (or such longer period as the professional board may allow) after the date on which such professional board was established.

[Par. (c) substituted by s. 30 (d) of Act 89 of 1997.]

[Sub-s. (2) amended by s. 3 (a) of Act 43 of 1980 and by s. 30 (c) of Act 89 of 1997.]

(3) The professional board may conduct an oral or practical examination for a person referred to in subsection (2) in order to determine the restrictions referred to in that subsection in respect of his or her professional activities.

[Sub-s. (3) added by s. 3 (d) of Act 43 of 1980 and substituted by s. 30 (e) of Act 89 of 1997.]

(4) Any person registered under subsection (2) in respect of any other health profession shall only be entitled to practise that profession subject to-

(a) such restrictions in respect of his or her professional activities; and

(b) the use of such name, title and description in respect of his or her profession,

as the professional board may determine.

[Sub-s. (4) added by s. 3 (d) of Act 43 of 1980 and substituted by s. 30 (e) of Act 89 of 1997.]

(5) The professional board may allow a person referred to in subsection (2) to sit for an examination and if such person passes such examination to the satisfaction of the professional board, it shall exempt him or her from all restrictions imposed in respect of him or her under subsection (2).

[Sub-s. (5) added by s. 3 (d) of Act 43 of 1980 and substituted by s. 30 (e) of Act 89 of 1997.]

[S. 33 amended by s. 30 (a) of Act 89 of 1997.]

Registration a prerequisite for practising a profession in respect of which a professional board has been instituted

34. (1) Subject to the provisions of sections 33 (2) (c) and 39, no person shall practise for gain within the Republic any other health profession the scope of which has been defined by the Minister in terms of section 33 (1), unless he or she is registered in terms of this Act in respect of such profession.

[Sub-s. (1) substituted by s. 31 of Act 89 of 1997.]

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and on conviction liable to the penalties mentioned in section 39.

[S. 34 substituted by s. 4 of Act 43 of 1980.]

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Registration and use of additional qualifications, and registration of specialities

35. (1) Every person who desires to have a qualification registered, other than the qualification by virtue of which he has in the first instance been registered, or to have a speciality registered shall, upon payment of the prescribed fee and subject to the provisions of subsection (2), be entitled to have such other qualification or such speciality entered in the register.

(1A) Where a person fails in respect of any provision of a regulation made under section 61 (1) (f) and applies to have a speciality registered in terms of this section, the council may require him or her to pass to the satisfaction of the council, on a date and at a place determined by the council, an examination prescribed under subsection (1B) before examiners appointed by the council, for the purpose of determining whether his or her professional knowledge and skill in the professional field of his or her speciality is sufficiently adequate to enable him or her to practise as a specialist.

[Sub-s. (1A) inserted by s. 8 of Act 52 of 1978 and substituted by s. 32 of Act 89 of 1997.]

(1B) The Minister may on the recommendation of the council from time to time make regulations which prescribe the examination which shall be conducted for the purposes of subsection (1A), and the fees which shall be paid by persons who sit for such examination.

[Sub-s. (1B) inserted by s. 8 of Act 52 of 1978.]

(2) Only such qualifications or specialities as may be prescribed shall be registrable under this section.

(3) No registered person shall take, use or publish in any way whatsoever any name, title, description or symbol indicating or calculated to lead persons to infer that he holds any professional qualification which is not shown in the register in connection with his name, nor shall any registered person practise as a specialist or hold himself out to be a specialist unless his speciality has been registered as prescribed.

(4) (a) The council may remove from the register any qualification registered in terms of subsection (1), if in respect of such qualification the name of the holder thereof has been removed from the roll, register or record of the university, hospital, college, society or other body from which that person received such qualification.

(b) The council may remove from the register any speciality if it is satisfied that the person on whose application such speciality has been registered has not complied with the requirements prescribed in regard to specialities, and shall so remove any speciality on the written application of the person on whose application such speciality has been registered.

(c) A qualification removed in terms of paragraph (a) or a speciality removed in terms of paragraph (b), shall be restored to the register by the registrar upon the person concerned-

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- (i) applying on the prescribed form for such restoration;
- (ii) paying the fee prescribed in respect of such restoration; and
- (iii) complying with such other requirements, if any, as the council may determine.

CHAPTER III**OFFENCES BY UNREGISTERED PERSONS****Penalties for practising as a medical practitioner or as an intern, or for performing certain other acts, while unregistered**

36. (1) Subject to the provisions of subsections (2) and (3) and section 37 any person, not registered as a medical practitioner or as an intern, who-

- (a) for gain practises as a medical practitioner (whether or not purporting to be registered);
- (b) for gain-
 - (i) physically examines any person;
 - (ii) performs any act of diagnosing, treating or preventing any physical defect, illness or deficiency in respect of any person;
 - (iii) advises any person on his physical state;
 - (iv) on the ground of information provided by any person or obtained from him in any manner whatsoever-
 - (aa) diagnoses such person's physical state;
 - (bb) advises such person on his physical state;
 - (cc) supplies or sells to or prescribes for such person any medicine or treatment;
 - (v) prescribes or provides any medicine, substance or thing; or
 - (vi) performs any other act specially pertaining to the profession of a medical practitioner;

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- (c) except in accordance with the provisions of the Medicines and Related Substances Act, 1965 (Act 101 of 1965), the Pharmacy Act, 1974 (Act 53 of 1974), the Health Act, 1977 (Act 63 of 1977), the Nursing Act, 1978 (Act 50 of 1978), the Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982 (Act 63 of 1982), and sections 33, 34 and 39 of this Act, performs any act whatsoever having as its object-
- (i) the diagnosing, treating or preventing of any physical defect, illness or deficiency in any person; and
- (ii) by virtue of the performance of such act, the obtaining, either for himself or for any other person, of any benefit by way of any profit from the sale or disposal of any medicine, foodstuff or substance or by way of any donation or gift or by way of the provision of accommodation, or the obtaining of, either for himself or for any other person, any other gain whatsoever;
[Par. (c) amended by s. 12 (a) of Act 58 of 1992 and by s. 33 (a) (i) of Act 89 of 1997.]
- (d) pretends, or by any means whatsoever holds himself out, to be a medical practitioner or intern (whether or not purporting to be registered) or a healer, of whatever description, of physical defects, illnesses or deficiencies in man;
- (e) uses the name of medical practitioner, intern, healer or doctor or any name, title, description or symbol indicating, or calculated to lead persons to infer, that he is the holder of any qualification as a medical practitioner, physician or surgeon, or as an obstetrician or intern or of any other qualification enabling him to diagnose, treat or prevent physical defects, illnesses or deficiencies in man in any manner whatsoever, or that he is registered under this Act as a medical practitioner or an intern;
- (f) except in accordance with the provisions of the Medicines and Related Substances Act, 1965, the Pharmacy Act, 1974, the Health Act, 1977, the Nursing Act, 1978, the Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982, and sections 33, 34 and 39 of this Act, by words, conduct or demeanour holds himself or herself out to be able, qualified or competent to diagnose, treat or prevent physical defects, illnesses or deficiencies in man or to prescribe or supply any medicine, substance or thing in respect of such defects, illnesses or deficiencies;
 or
[Par. (f) substituted by s. 12 (b) of Act 58 of 1992 and by s. 33 (a) (ii) of Act 89 of 1997.]
- (g) (i) diagnoses, treats or offers to treat, or prescribes treatment or any cure for, cancer;

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- (ii) holds himself out to be able to treat or cure cancer or to prescribe treatment therefor; or
- (iii) holds out that any article, compound, medicine or apparatus is or may be of value for the alleviation, curing or treatment of cancer,

shall be guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

[Sub-s. (1) amended by s. 33 (a) (iii) of Act 89 of 1997.]

(2) The provisions of subsection (1) shall not prohibit-

- (a) an intern working at an institution recognised by the council from-
 - (i) performing any function or issuing any certificate or other document which in terms of any law, other than this Act, may be or is required to be performed or issued by a medical practitioner, whether described in such law as a medical practitioner or by any other name or designation; or
 - (ii) describing himself as a medical practitioner in connection with the performance of any such function or the issuing of any such certificate or other document,

and any reference in any such law to such a medical practitioner shall be deemed to include a reference to an intern;

[Par. (a) amended by s. 33 (b) of Act 89 of 1997.]

- (aA) a student intern in the course of his training from-
 - (i) performing under the supervision of a medical practitioner any act mentioned in paragraph (b) of subsection (1) which has been prescribed;
 - (ii) issuing in connection with such performance of that act in the institution where he is undergoing his training, any document required in respect of the performance of that act;

[Par. (aA) inserted by s. 16 of Act 36 of 1977.]

- (b) a pharmacist registered under the Pharmacy Act, 1974 (Act 53 of 1974), from performing any act falling within the scope of his profession as contemplated in that Act; or

[Par. (b) substituted by s. 12 (c) of Act 58 of 1992.]

- (c) a dentist from performing any act falling within the scope of his profession as contemplated in this Act or from using any name, title,

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description or symbol normally associated with his profession.

(3) The provisions of subsection (1) (g) shall not-

- (a) apply in respect of any act performed by any person in the course of *bona fide* research at any institution approved for that purpose by the Minister;
- (b) be construed as prohibiting a dentist from-
 - (i) diagnosing cancer while performing in respect of any person any act pertaining to the practice of dentistry; or
 - (ii) treating cancer so diagnosed;
- (c) apply in respect of-
 - (i) any act performed by a pharmacist registered under the Pharmacy Act, 1974, or by an employee of such pharmacist acting within the scope of his employment, for the purposes of selling or promoting the sale of any medicine to another pharmacist or to any medical practitioner; or
 - (ii) the sale of any medicine by any pharmacist to any person in pursuance of a written prescription of a medical practitioner.

(4) For the purposes of subsection (1) "cancer" shall include all neoplasms, irrespective of their origin, including lymphoma and leukaemia.

Penalties for practising as a psychologist or as an intern-psychologist, or for performing certain other acts, while unregistered

37. (1) Subject to the provisions of subsections (4) and (6) of this section and section 36, any person, not registered as a psychologist or as an intern-psychologist, who-

- (a) for gain, practises as a psychologist (whether or not purporting to be registered);
- (b) for gain-
 - (i) mentally examines any person;
 - (ii) performs any act of diagnosing, treating or preventing any mental defect, illness or deficiency in respect of any person;
 - (iii) advises any person on his mental state;

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- (iv) on the ground of information provided by any person or obtained from him in any manner whatsoever-
 - (aa) diagnoses such person's mental state;
 - (bb) advises such person on his mental state;
 - (cc) supplies or sells to or prescribes for such person any medicine or treatment;
- (v) prescribes or provides any medicine, substance or thing; or
- (vi) performs any other act specially pertaining to the profession of a psychologist;
- (c) except in accordance with the provisions of the Nursing Act, 1978 (Act 50 of 1978), and sections 33, 34 and 39 of this Act, performs any act whatsoever having as its object-
 - (i) the diagnosing, treating or preventing of any mental defect, illness or deficiency in any person; and
 - (ii) by virtue of the performance of such act, the obtaining, either for himself or for any other person, of any benefit by way of any profit from the sale or disposal of any medicine, foodstuff or substance or by way of any donation or gift or by way of the provision of accommodation, or the obtaining, either for himself or for any other person, of any other gain whatsoever;
[Par. (c) amended by s. 13 (a) of Act 58 of 1992 and by s. 34 (a) (i) of Act 89 of 1997.]
- (d) pretends, or by any means whatsoever holds himself out, to be a psychologist or intern-psychologist (whether or not purporting to be registered) or a healer, of whatever description, of mental defects, illnesses or deficiencies in man;
- (e) uses the name of psychologist, intern-psychologist or doctor or any name, title, description or symbol indicating, or calculated to lead persons to infer, that he is the holder of any qualification as a psychologist or as an intern-psychologist or of any other qualification enabling him to diagnose, treat or prevent mental defects, illnesses or deficiencies in man in any manner whatsoever, or that he is registered under this Act as a psychologist or as an intern-psychologist;
- (f) except in accordance with the provisions of the Nursing Act, 1978, and sections 33, 34 and 39 of this Act, by words, conduct or demeanour holds himself out to be able, qualified or competent to diagnose, treat or

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prevent mental defects, illnesses or deficiencies in man or to prescribe or supply any medicine, substance or thing in respect of such defects, illnesses or deficiencies,

[Par. (f) substituted by s. 13 (b) of Act 58 of 1992 and amended by s. 34 (a) (ii) of Act 89 of 1997.]

shall be guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment.

[Sub-s. (1) amended by s. 34 (a) (iii) of Act 89 of 1997.]

(2) The following acts shall, for the purposes of subsection (1), be deemed to be acts specially pertaining to the profession of a psychologist, namely-

(a) the evaluation of behaviour or mental processes or personality adjustments or adjustments of individuals or of groups of persons, through the interpretation of tests for the determination of intellectual abilities, aptitude, interests, personality make-up or personality functioning, and the diagnosis of personality and emotional functions and mental functioning deficiencies according to a recognised scientific system for the classification of mental deficiencies;

[Par. (a) substituted by s. 34 (b) of Act 89 of 1997.]

(b) the use of any method or practice aimed at aiding persons or groups of persons in the adjustment of personality, emotional or behavioural problems or at the promotion of positive personality change, growth and development, and the identification and evaluation of personality dynamics and personality functioning according to psychological scientific methods;

[Par. (b) substituted by s. 34 (b) of Act 89 of 1997.]

(c) the evaluation of emotional, behavioural and cognitive processes or adjustment of personality of individuals or groups of persons by the usage and interpretation of questionnaires, tests, projections or other techniques or any apparatus, whether of South African origin or imported, for the determination of intellectual abilities, aptitude, personality make-up, personality functioning, psychophysiological functioning or psychopathology;

[Par. (c) substituted by s. 34 (b) of Act 89 of 1997.]

(d) the exercising of control over prescribed questionnaires or tests or prescribed techniques, apparatus or instruments for the determination of intellectual abilities, aptitude, personality make-up, personality functioning, psychophysiological functioning or psychopathology;

[Par. (d) added by s. 34 (b) of Act 89 of 1997.]

(e) the development of and control over the development of questionnaires, tests, techniques, apparatus or instruments for the determination of intellectual abilities, aptitude, personality make-up, personality

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functioning, psychophysiological functioning or psychopathology;

[Par. (e) added by s. 34 (b) of Act 89 of 1997.]

- (f) the use of any psychotherapeutic method, technique or procedure to rectify, relieve or change personality, emotional, behavioural or adjustment problems or mental deficiencies of individuals or groups of people;

[Par. (f) added by s. 34 (b) of Act 89 of 1997.]

- (g) the use of hypnosis and hypnotherapy;

[Par. (g) added by s. 34 (b) of Act 89 of 1997.]

- (h) the use of any psychological method or counselling to prevent personality, emotional, cognitive, behavioural and adjustment problems or mental illnesses of individuals or groups of people.

[Par. (h) added by s. 34 (b) of Act 89 of 1997.]

(3) The provisions of subsection (1) shall not prohibit an intern-psychologist actually undergoing an internship from-

- (a) performing any function or issuing any certificate or other document which in terms of any law, other than this Act, may be or is required to be performed or issued by a psychologist, whether described in such law as a psychologist or by any other name or designation; or
- (b) describing himself as a psychologist in connection with the performance of any such function or the issuing of any such certificate or other document,

and any reference in any such law to such a psychologist shall be deemed to include a reference to an intern-psychologist.

[Sub-s. (3) amended by s. 34 (c) of Act 89 of 1997.]

(4) Subject to the provisions of subsection (5), the provisions of subsection (1) shall not be construed as prohibiting the following, namely-

- (a) the use of a method or technique, referred to in subsection (2), by-
- (i) an educational, a training or a research institution recognized by the professional board and the council;

[Sub-par. (i) substituted by s. 34 (d) (i) of Act 89 of 1997.]

- (ii) a member of the academic staff of a university, a technikon, a training institution or a teacher on the staff of a school established under any law,

[Sub-par. (ii) substituted by s. 13 (c) of Act 58 of 1992 and by s. 34 (d) (i) of Act 89 of 1997.]

in the ordinary course of education or research in education;

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- (b) the performance of any act by a medical practitioner, provided it is performed in the ordinary course of the practice of his profession;
 - (c) the performance of any act by a nurse registered under the Nursing Act, 1978, provided it is performed in the ordinary course of the practice of the profession of a nurse;
[Par. (c) substituted by s. 13 (d) of Act 58 of 1992.]
 - (d) the performance of any act by or under the supervision of a social worker registered under the Social Work Act, 1978 (Act 110 of 1978);
[Par. (d) substituted by s. 13 (d) of Act 58 of 1992.]
 - (e) the performance of any act by a person holding office in a religious denomination which exists for the purpose of worshipping, provided it is performed for that purpose and in accordance with the normal pastoral practice of that religious denomination;
[Par. (e) substituted by s. 34 (d) (ii) of Act 89 of 1997.]
 - (f) anything necessary or required to be done by a student in the course of and for the purposes of his studies at a university or other prescribed institution, provided it is done by him under the supervision of a psychologist;
 - (g) anything done in the prescribed manner-
 - (i) by any person under the supervision of or on the instructions of a psychologist; or
 - (ii) by an organization, recognized by the professional board and the council, which performs services for the aid of persons with personal problems.
[Sub-par. (ii) substituted by s. 34 (d) (iii) of Act 89 of 1997.]
- (5) The provisions of subsection (4) shall not be construed as authorizing-
- (a) in the case of a member of the academic staff or teacher referred to in paragraph (a) (ii) of that subsection, the treatment of a mental illness as defined in section 1 of the Mental Health Act, 1973 (Act 18 of 1973);
 - (b) in the case of a social worker referred to in paragraph (d) of that subsection, the conduct of a psychological test or the treatment of a mental illness as defined in section 1 of the said Mental Health Act;
 - (c) in the case of a person referred to in paragraph (e) of that subsection, the conduct of a psychological test or the treatment of a mental illness as defined in section 1 of the said Mental Health Act.

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(6) The Minister may, on the recommendation of the council acting after consultation with the professional board referred to in section 15 (1), by regulation-

- (a) provide that any act referred to in subsection (2) and specified in such regulation, may be performed by a person not registered as a psychologist or as an intern-psychologist under this Act or by an organization recognized by the professional board; and

[Par. (a) substituted by s. 34 (e) of Act 89 of 1997.]

- (b) prescribe the conditions on which such act may be performed by such person or such organization.

[Par. (b) substituted by s. 34 (e) of Act 89 of 1997.]

[S. 37 substituted by s. 6 of Act 33 of 1976.]

Penalties for practising as a dentist, or for performing certain other acts, while unregistered

38. (1) Subject to the provisions of subsection (3) any person, not registered as a dentist, who-

- (a) for gain, practises as a dentist (whether or not purporting to be registered), or performs any act specially pertaining to the practice of dentistry or takes in the mouth any impression or bite in connection with, or tries in or fits in the mouth, any artificial denture or other similar dental appliance for the purpose of making, repairing or supplying any such denture or dental appliance; or makes, repairs or supplies any artificial denture or other similar dental appliance if for the purpose of such making, repairing or supplying any impression or bite was taken or any trying in or fitting was done in the mouth by any person not registered as a dentist; or
- (b) pretends or by any means whatsoever holds himself out to be a dentist (whether or not purporting to be registered), or to be entitled to practise dentistry, or who uses the name of dentist or any name, title, description or symbol indicating or calculated to lead persons to infer that he is the holder of any qualification as a dentist, or that he is registered as a dentist or entitled to practise dentistry under this Act,

shall be guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

[Sub-s. (1) amended by s. 35 (a) of Act 89 of 1997.]

(2) For the purposes of this Act the practice of dentistry means the performance of any such operation or the giving of any such treatment or advice as is usually performed or given by a dentist, or any operation, treatment or advice preparatory to or for the purpose of or in connection with the making, repairing, supplying, fitting, insertion or

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fixing of artificial dentures or other similar dental appliances.

(3) Nothing in this section contained shall be construed as prohibiting-

- (a) a medical practitioner, not registered also as a dentist, from performing in the course of his practice acts pertaining to the practice of dentistry in cases of emergency or where no dentist is readily available, or as prohibiting the employment by and under the supervision of a dentist of any person registered under the Dental Technicians Act, 1979 (Act 19 of 1979), for the purpose of making or repairing dentures or other dental appliances, or as prohibiting any person from making or repairing any artificial denture or other dental appliances for his own profit, provided such work is carried out on the instructions and to the order of a dentist, and does not include the taking of any impression or bite or any trying in or fitting in the mouth;

[Par. (a) substituted by s. 14 of Act 58 of 1992.]

- (b) a person registered in terms of this Act in respect of a profession connected with the practice of dentistry, from performing any acts pertaining to the practice of dentistry under the control of a medical practitioner or a dentist: Provided that the Minister may, on the recommendation of the council, by regulation provide that persons so registered in respect of any such profession specified in such regulations may perform such acts under the control of a dentist only.

[Par. (b) amended by s. 35 (b) of Act 89 of 1997.]

Prohibition of performance for gain of certain acts deemed to pertain to other health professions by unregistered persons registrable in terms of this Act

39. (1) No person shall perform for gain any act deemed under section 33 to be an act pertaining to any other health profession unless he or she-

- (a) is registered in terms of this Act in respect of such profession;

[Par. (a) substituted by s. 36 (c) of Act 89 of 1997.]

- (b) (i) is registered in terms of this Act in respect of any other profession to which also such act is under section 33 deemed to pertain; or

- (ii) practises another health profession in respect of which the registrar in terms of this Act keeps a register and such act is deemed to be an act which pertains to such profession is registered under section 32 in respect of any other profession to which also such act is under section 33 deemed to pertain; or

[Par. (b) substituted by s. 36 (c) of Act 89 of 1997.]

- (c) is a medical practitioner and such act is an act which also pertains to the profession of a medical practitioner;

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- (d) is a dentist and such act is an act which also pertains to the profession of a dentist; or
- (e) is registered or enrolled as a nurse under the Nursing Act, 1978 (Act 50 of 1978), and such act is an act which also pertains to the profession of a nurse.

[Sub-s. (1) amended by s. 36 (b) of Act 89 of 1997.]

(2) Any person contravening the provisions of subsection (1) shall be guilty of an offence and on conviction liable to a fine not exceeding R500 or to imprisonment for a period not exceeding 12 months, or to both such fine and such imprisonment.

[S. 39 substituted by s. 5 of Act 43 of 1980.]

[S. 39 amended by s 36 (a) of Act 89 of 1997.]

Penalty for professing to be a registered person or the holder of certain qualifications

40. Any person who is not registered in respect of any other health profession, but-

- (a) pretends to be so registered in respect of such profession; or
- (b) uses any name, title, description or symbol indicating, or calculated to lead persons to infer that he or she is the holder of any qualification which by rule under this Act is recognized by the council as acceptable for registration in respect of such profession, but of which qualification he or she is not the holder; or
- (c) uses any name declared by regulation to be a name which may not be used,

[Par. (b) substituted by s. 37 (b) of Act 89 of 1997.]

[Par. (c) inserted by s. 6 (b) of Act 43 of 1980.]

shall be guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment.

[S. 40 substituted by s. 7 of Act 33 of 1976 and amended by s. 37 (a) and (c) of Act 89 of 1997.]

CHAPTER IV

DISCIPLINARY POWERS OF PROFESSIONAL BOARDS

[Heading substituted by s. 38 of Act 89 of 1997.]

Inquiry by professional boards into charges of misconduct

41. (1) A professional board shall have power to institute an inquiry into any complaint, charge or allegation of unprofessional conduct against any person registered under this

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Act, and, on finding such person guilty of such conduct, to impose any of the penalties prescribed in section 42 (1): Provided that in the case of a complaint, charge or allegation which forms or is likely to form the subject of a criminal case in a court of law, the professional body may postpone the holding of an inquiry until such case has been determined.

(2) A professional board may, whenever it is in doubt as to whether an inquiry should be held, in connection with the complaint, charge or allegation in question consult with or seek information from any person, including the person against whom the complaint, charge or allegation has been lodged.

[S. 41 substituted by s. 39 of Act 89 of 1997.]

Manner in which certain investigations may be instituted

41A. (1) The registrar may with the approval of the chairperson of a professional board appoint an officer of the professional board as investigating officer for the purposes of this section.

(2) If the registrar deems it necessary, he or she may with the approval of the chairperson of a professional board and on such conditions as the professional board may determine, appoint any person other than a member of the professional board, who is not in the full-time employment of the professional board, as investigating officer for a particular investigation, or to assist the investigating officer contemplated in subsection (1) with a particular investigation.

[Subs. (1) and (2) substituted by s. 40 (a) of Act 89 of 1997.]

(3) A person appointed in terms of subsection (2) shall, for the purpose of the investigation in question, have the same powers and duties as the investigating officer contemplated in subsection (1).

(4) The registrar shall issue to every person appointed under subsection (1) or (2) a certificate to the effect that he has so been appointed, and, in the case of a person appointed for, or to assist with, a particular investigation, that he has been appointed for such investigation, and in the exercise of his powers and the carrying out of his duties that person shall on demand produce such certificate.

(5) If the registrar deems it necessary for the achievement of the objects of this Act, he may institute or cause to be instituted an investigation-

- (a) into an alleged contravention of, or failure to comply with, any provision of this Act;
- (b) in order to determine if any provision of this Act applies to a registered person;
- (c) into a charge, complaint or allegation of improper or disgraceful conduct

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- (d) by a registered person;
into the affairs or conduct of a registered person, if requested to do so by a person by reason of allegations confirmed upon oath.

(6) The registrar or an investigating officer who carries out an investigation in terms of this section may-

- (a) at any time reasonable for the proper performance of the duty, with the approval of the chairperson of the professional board and without prior notice enter upon, enter and search any premises, and carry out such an investigation and make such enquiries as he may deem necessary;
[Par. (a) amended by s. 40 (b) of Act 89 of 1997.]

- (b) while he is on the premises or at any other time request any person found on the premises to immediately or at a time and place determined by the registrar or investigating officer-

- (i) produce to him any book, document or thing relating to, or which he on reasonable grounds believes, to relate to, the matter which he is investigating, and which is or was on the premises, or in the possession or custody or under the control of that person or his employee or agent;
- (ii) furnish such explanations to him as he may require in respect of any such book, document or thing;

- (c) at any time and at any place request any person who has or is suspected on reasonable grounds of having in his possession or custody or under his control any book, document or thing relating to the matter which he is investigating, to produce it immediately or at a time and place determined by the registrar or investigating officer, examine such book, document or thing, make extracts from and copies of the book or document, and request any person to furnish such explanations to him as he may require in respect of any entry in that book or document;

- (d)
[Par. (d) deleted by s. 40 (c) of Act 89 of 1997.]

- (7)
[Subs. (7) deleted by s. 40 (d) of Act 89 of 1997.]

(8) (a) The registrar or an investigating officer who carries out an investigation under this section, shall compile a report of the investigation, and a report compiled by an investigating officer shall be submitted to the registrar.

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(b) (i) If such a report reveals *prima facie* evidence of improper or disgraceful conduct contemplated in this Act and no complaint, charge or allegation regarding the conduct in question has been made for the purpose of an inquiry in terms of section 41, such report shall be deemed to be a complaint made for that purpose, and the registrar shall serve a copy thereof on the registered person concerned.

[Subpar. (i) amended by s. 40 (e) (i) of Act 89 of 1997.]

(ii) If such a report reveals *prima facie* evidence, which in the opinion of the chairperson of the professional board makes it desirable that an inquiry in terms of section 51 be instituted, the registrar shall serve a copy thereof on the registered person concerned.

[Subpar. (ii) amended by s. 40 (e) (ii) of Act 89 of 1997.]

(iii) If such a report does not reveal *prima facie* evidence of unprofessional conduct contemplated in this Act, the registrar shall serve a copy thereof to the registered person concerned.

[Subpar. (iii) added by s. 40 (e) (iii) of Act 89 of 1997.]

(c) To the extent that such a report contains statements of witnesses which would have been admissible as oral evidence at an inquiry in terms of section 41 or 51, the provisions of section 213 of the Criminal Procedure Act, 1977 (Act 51 of 1977), shall apply *mutatis mutandis* in respect of those statements at such an inquiry.

[Par. (c) amended by s. 40 (e) (iv) of Act 89 of 1997.]

(9) (a) A person who carries out or assists with the carrying out of an investigation in terms of this section, shall keep or assist in preserving secrecy in respect of all facts which come to his notice in the performance of his functions, and shall not disclose any such fact to any person except the registrar, the president, the council, the professional board concerned, the chairperson of the professional body concerned or the public prosecutor concerned in the case of an offence in terms of this Act, or by order of a court.

[Par. (a) amended by s. 40 (f) of Act 89 of 1997.]

(b) Notwithstanding the provisions of paragraph (a), no personal particulars regarding a patient shall be disclosed to any person except by order of a court or with the consent of the presiding officer at an inquiry contemplated in section 41 or 51.

[Par. (b) amended by s. 40 (g) of Act 89 of 1997.]

(10) (a)

[Par. (a) deleted by s. 40 (h) of Act 89 of 1997.]

(b) Such an order shall be executed as if it were a judgment in a civil case in a magistrate's court.

(11) Any person who-

- (a) refuses or neglects to produce any book, document or thing to any person who is in terms of this section authorized to ask therefor;

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[Par. (a) substituted by s. 40 (i) of Act 89 of 1997.]

- (b) hinders or obstructs the registrar or an investigating officer in the exercise of his powers or the carrying out of his duties;
- (c) pretends that he is the registrar or an investigating officer;
- (d) contravenes a provision of subsection (9),

shall be guilty of an offence and liable on conviction-

- (i) in the case of a contravention contemplated in paragraph (a), (b) or (c), to a fine not exceeding R500 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment;
- (ii) in the case of a contravention contemplated in paragraph (d), to a fine not exceeding R1 500 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(12) The provisions of this section shall be without prejudice to the power of any authority to institute an investigation into any alleged contravention of, or failure to comply with, any provision of this Act.

[S. 41A inserted by s. 5 of Act 58 of 1984.]

Matters for and procedure at inquiry by professional boards

[Heading of s. 42 substituted by s. 41 (a) of Act 89 of 1997.]

42. (1) Every person registered under this Act who, after an inquiry held by the professional board, is found guilty of improper or disgraceful conduct, or conduct which, when regard is had to such person's profession, is improper or disgraceful, shall be liable to one or other of the following penalties-

[Words preceding par. (a) amended by s. 41 (b) (i) of Act 41 of Act 89 of 1997.]

- (a) a caution or a reprimand or a reprimand and a caution; or
- (b) suspension for a specified period from practising or performing acts specially pertaining to his profession; or
- (c) removal of his name from the register; or
- (d) a fine not exceeding R10 000; or
- (e) a compulsory period of professional service as may be determined by the professional board; or

[Par. (d) added by s. 7 (a) of Act 79 of 1990 and pars. (c) and (d) amended by s. 41 (b) (ii) of Act 89 of 1997.]

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(f) the payment of the costs of the proceedings or a restitution.

[Pars. (e) and (f) added by s. 41 (b) (iii) of Act 89 of 1997.]

(1A) If an appeal is lodged against a penalty or erasure or suspension from practice, such penalty shall remain effective until the appeal is heard.

[Subs. (1A) inserted by s. 41 (c) of Act 89 of 1997.]

(2) Every person whose conduct is the subject of an inquiry under section 41, shall be afforded an opportunity, by himself or through his legal representative, of answering the charge and of being heard in his defence.

(3)

[Subs. (3) deleted by s. 41 (d) of Act 89 of 1997.]

(4) (a) For the purposes of any inquiry held in terms of section 41, a professional board may take evidence and may, under the hand of the chairperson of the professional board or the registrar, summon witnesses and require the production of any book, record, document or thing, and may, through the chairperson of the professional board or the person presiding at the inquiry, administer an oath to any witness or accept an affirmation from him or her, and may examine any book, record, document or thing which any witness had been required to produce.

[Par. (a) substituted by s. 15 (a) of Act 58 of 1992 and by s. 41 (e) (i) of Act 89 of 1997.]

(b) A summons to appear before the professional board as a witness or to produce to it any book, record, document or thing shall be, as nearly as practicable, in the prescribed form, shall be signed by the chairperson of the professional board or the registrar and shall be served either by registered letter sent through the post or in the same manner as it would have been served if it were a subpoena issued by a magistrate's court.

[Par. (b) substituted by s. 41 (e) (i) of Act 89 of 1997.]

(c) Every person summoned in terms of this subsection shall be bound to obey the summons and any person who, having duly been summoned-

(i) refuses, or without sufficient cause fails, to attend and give evidence relevant to the inquiry at the time and place specified in the summons;

(ii) refuses to take the oath or to make an affirmation when required by the chairperson of a professional board or the person presiding at the inquiry to do so;

[Sub-par. (ii) substituted by s. 15 (b) of Act 58 of 1992 and by s. 41 (e) (ii) of Act 89 of 1997.]

(iii) refuses to produce any book, record, document or thing which he has in terms of the summons been required to produce;

[Subpar. (iii) amended by s. 41 (e) (iii) of Act 89 of 1997.]

(iv)

[Subpar. (iv) deleted by s. 41 (e) (iv) of Act 89 of 1997.]

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shall be guilty of an offence and on conviction liable to a fine as determined by the Minister in consultation with the Minister of Justice by notice in the *Gazette*: Provided that every person so summoned shall be entitled to all the privileges to which a witness subpoenaed to give evidence before a provincial division of the Supreme Court is entitled.

[Words following upon subpar. (iv) amended by s. 41 (e) (v) of Act 89 of 1997.]

(5) The chairperson of a professional board, where the professional board itself holds an inquiry in terms of section 41, or the chairperson of a committee of a professional board, where such committee holds an inquiry under powers delegated to it by the professional board, may appoint a person with adequate experience in the administration of justice to be present as an assessor at such an inquiry and to advise the professional board or such committee, as the case may be, on matters of law, procedure or evidence.

[Subs. (5) substituted by s. 41 (f) of Act 89 of 1997.]

(6)

[Sub-s. (6) deleted by s. 8 of Act 33 of 1976.]

(7) The professional board may, if it deems fit, and subject to such conditions as it may determine-

[Words preceding par. (a) substituted by s. 41 (g) of Act 89 of 1997.]

- (a) terminate any suspension under subsection (1) before the expiry of the specified period; or
- (b) on payment of the prescribed fee, restore to the register any name which has been removed therefrom.

(8) If a person registered in terms of this Act (in this section referred to as the accused) is alleged to be guilty of unprofessional conduct and the professional board on reasonable grounds is of the opinion that it shall impose a fine as determined by the Minister in consultation with the Minister of Justice by notice in the *Gazette* on conviction after an inquiry under section 41, the professional board may issue a summons as prescribed on which an endorsement is made by the professional board that the accused may admit that he or she is guilty of the said conduct and that he or she may pay the fine stipulated without appearing at the said inquiry.

[Sub-s. (8) added by s. 7 (b) of Act 79 of 1990 and amended by Government Notice No. R.1140 of 1 July 1994 and by Government Notice No. R.19 of 3 January 1997 and further substituted by s. 41 (h) of Act 89 of 1997.]

(9) Where a summons in terms of subsection (8) is issued against an accused, the accused may, without appearing at an inquiry in terms of section 41, admit his or her guilt in respect of the conduct referred to in subsection (1) by paying the stipulated fine (in this section referred to as the admission of guilt fine) to the professional board concerned before a date specified in the summons.

[Sub-s. (9) added by s. 7 (b) of Act 79 of 1990 and substituted by s. 41 (h) of Act 89 of 1997.]

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(10) (a) Any penalty imposed under this section, excluding an admission of guilt fine, shall be paid to the professional board within 14 days after such imposition.

(b) The imposition of a penalty shall have the effect of a civil judgment of the magistrate's court of the district in which the inquiry under section 41 took place.

[Sub-s. (10) added by s. 7 (b) of Act 79 of 1990 and substituted by s. 41 (h) of Act 89 of 1997.]

(11) The Minister may on the recommendation of the professional board amend the amount mentioned in subsection (8) by notice in the *Gazette*.

[Sub-s. (11) added by s. 7 (b) of Act 79 of 1990 and substituted by s. 41 (h) of Act 89 of 1997.]

Postponement of imposition of penalty and suspension of operation of penalty

43. (1) Where a professional board finds a person referred to in section 42 (1) guilty of conduct referred to therein, it may-

[Words preceding par. (a) substituted by s. 42 (a) of Act 89 of 1997.]

(a) postpone for such period and on such conditions as may be determined by it, the imposition of the penalty; or

(b) impose any penalty mentioned in paragraph (b), (c) or (d) of section 42 (1), but order the execution of such penalty or any part of the penalty to be suspended for such period and on such conditions as may be determined by it.

[Par. (b) substituted by s. 8 (a) of Act 79 of 1990.]

(2) (a) If at the end of the period for which the imposition of a penalty has been postponed in terms of subsection (1) (a), the professional board is satisfied that the person concerned has observed all the relevant conditions, the professional board shall inform the person concerned that no penalty will be imposed upon him or her.

(b) If the execution of a penalty or any part of a penalty has been suspended in terms of subsection (1) (b), and the professional board is satisfied that the person concerned has observed all relevant conditions throughout the period of suspension, the professional board shall inform such person that such penalty or part thereof will not be executed.

[Par. (b) substituted by s. 8 (b) of Act 79 of 1990.]

(c) If the execution of a penalty or any part of a penalty has been suspended in terms of subsection (1) (b) and the person concerned fails to observe any of the conditions of suspension, the professional board shall put such penalty or part thereof into operation, unless such person satisfies the professional board that the non-observance of the condition concerned was due to circumstances beyond his or her control.

[Par. (c) substituted by s. 8 (c) of Act 79 of 1990. Subs. (2) substituted by s. 42 (b) of Act 89 of 1997.]

Effect of suspension or removal from register

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44. Every person who has been suspended or whose name has been removed from the register in terms of section 42 shall, if his or her profession is one which, under this Act, cannot be lawfully carried on by an unregistered person, be disqualified from carrying on his or her profession and his or her registration certificate shall be deemed to be cancelled until the period of suspension has expired or until his or her name has been restored to the register by the professional board.

[S. 44 amended by s. 43 of Act 89 of 1997.]

Cognizance by professional boards of conduct of registered persons under certain circumstances

[Heading of s. 44 substituted by s. 44 (a) of Act 89 of 1997.]

45. (1) Every registered person who, either before or after registration, has been convicted of any offence by a court of law may be dealt with by the professional board in terms of the provisions of this Chapter if the professional board is of the opinion that such offence constitutes unprofessional conduct, and shall be liable on proof of the conviction to one or other of the penalties referred to in section 42: Provided that, before imposition of any penalty, such person shall be afforded an opportunity of tendering an explanation to the professional board in extenuation of the conduct in question.

[Subs. (1) substituted by s. 44 (b) of Act 89 of 1997.]

(2) Whenever in the course of any proceedings before any court of law it appears to the court that there is prima facie proof of improper or disgraceful conduct on the part of a registered person, or of conduct which, when regard is had to such person's profession, is improper or disgraceful, the court shall direct that a copy of the record of such proceedings, or such portion thereof as is material to the issue, shall be transmitted to the council.

(3)

(4)

[Subss. (3) and (4) deleted by s. 44 (c) of Act 89 of 1997.]

Penalty for false evidence

46. Any person who gives false evidence on oath at any inquiry held under this Chapter, knowing such evidence to be false, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for the crime of perjury.

Limitation of liability

47. Save as is provided in this Act, the council or a professional board or any member or officer thereof shall not be liable in respect of any act done in good faith or duty performed in accordance with this Chapter.

[S. 47 substituted by s. 54 of Act 88 of 1996 and by s. 45 of Act 89 of 1997.]

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48.*[S. 48 amended by s. 7 of Act 43 of 1980 and repealed by s. 46 of Act 89 of 1997.]***Council to make rules relating to offences under this Chapter**

49. (1) The council shall, in consultation with a professional board, from time to time make rules specifying the acts or omissions in respect of which the professional board may take disciplinary steps under this Chapter: Provided that the powers of a professional board to inquire into and deal with any complaint, charge or allegation relating to a health profession under this Chapter, shall not be limited to the acts or omissions so specified.

[Sub-s. (1) substituted by s. 47 of Act 89 of 1997.]

(2) No rule made in terms of subsection (1) or any amendment or withdrawal thereof shall be of force and effect until approved by the Minister and published in the *Gazette*.

50.*[S. 50 amended by s. 9 of Act 33 of 1976 and repealed by s. 48 of Act 89 of 1997.]***Regulations relating to inquiries in respect of impaired persons registered in terms of this Act**

51. The Minister may, in consultation with the council, make regulations relating to inquiries in respect of students or persons registered in terms of this Act who appear to be impaired, on the assessment of their condition, the conditions to be imposed on their registration or practice, their suspension or removal from practising, revocation of conditions, suspension or removal and on acts of unprofessional conduct committed before or during assessment or investigation.

*[S. 51 substituted by s. 49 of Act 89 of 1997.]***CHAPTER V****GENERAL AND SUPPLEMENTARY PROVISIONS****Medical practitioners and dentists may dispense medicines**

52. (1) (a) Every medical practitioner or dentist whose name has been entered in the register contemplated in subsection (2) shall, on such conditions as the council may determine in general or in a particular case, be entitled to personally compound or dispense medicines prescribed by himself or by any other medical practitioner or dentist with whom he is in partnership or with whom he is associated as principal or assistant or locum tenens, for use by a patient under treatment of such medical practitioner or dentist or of such other medical practitioner or dentist: Provided that he shall not be entitled to keep an open shop or pharmacy.

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(b) The council may, on such conditions as it may determine, exempt any medical practitioner or dentist from the requirement of registration contemplated in paragraph (a), and may, after an investigation, withdraw such exemption.

(2) The registrar shall keep a register in which he shall enter, at the direction of the council, the name and such other particulars as the council may determine of a medical practitioner or dentist-

- (a) who within three months after the commencement of the Medical, Dental and Supplementary Health Service Professions Amendment Act, 1984, submits proof to the satisfaction of the registrar that at such commencement he compounded or dispensed medicine as contemplated in subsection (1) (a) in the practice of his profession; or
- (b) who informs the registrar in the prescribed manner of his intention to compound or dispense medicine in the practice of his profession as contemplated in subsection (1) (a).

(3) The council may, after an investigation, direct that the name of any person be removed from the register contemplated in subsection (2), or prohibit him for a specified period from making use of the right contemplated in subsection (1).

(4) The council may determine fees to be paid for the entering of a name in the register contemplated in subsection (2).

[S. 52 substituted by s. 6 of Act 58 of 1984.]

52A.

[S. 52A inserted by s. 17 of Act 36 of 1977, substituted by s. 7 of Act 58 of 1984 and repealed by s. 51 of Act 89 of 1997.]

Charges by registered persons

53. (1) Every person registered under this Act (in this section referred to as the practitioner) shall, unless the circumstances render it impossible for him to do so, before rendering any professional services inform the person to whom the services are to be rendered or any person responsible for the maintenance of such person, of the fee which he intends to charge for such services-

- (a) when so requested by the person concerned; or
- (b) when such fee exceeds that usually charged for such services,

and shall in a case to which paragraph (b) relates, also inform the person concerned of the usual fee.

(2) Any practitioner who in respect of any professional services rendered by him claims payment from any person (in this section referred to as the patient) shall, subject to the provisions of section 32 of the Medical Schemes Act, 1967 (Act 72 of 1967), furnish the

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patient with a detailed account within a reasonable period.

[Sub-s. (2) substituted by s. 43 of Act 23 of 1993.]

(3) (a) The patient may, within three months after receipt of the account referred to in subsection (2), apply in writing to the professional board to determine the amount which in the opinion of the professional board should have been charged in respect of the services to which the account relates, and the professional board shall, as soon as possible after receipt of the application, determine the said amount and notify the practitioner and the patient in writing of the amount so determined: Provided that before the professional board determines the said amount, it shall afford the practitioner concerned an opportunity to submit to it in writing his or her case in support of the amount charged.

(b)

(c) The Minister may, after consultation with the council, make such regulations as he or she may deem necessary in relation to the procedure which [the council] a professional board shall follow in disposing of an application under this subsection.

(d) A professional board may from time to time determine and publish the fees used by the professional board as norm for the determination of amounts contemplated in paragraph (a).

[Sub-s. (3) amended by s. 9 of Act 52 of 1978 and by s. 55 of Act 88 of 1996 and substituted by s. 52 (a) of Act 89 of 1997.]

(4) A claim which is the subject of an application referred to in subsection (3) of which notice has been given by the professional board or the patient to the practitioner, shall not be recoverable until a determination has been made in terms of that subsection, and when such a determination has been made no amount which exceeds the amount so determined, shall be payable: Provided that if the patient has paid to the practitioner an amount in settlement or part settlement of such claim and such amount exceeds the amount so determined, the practitioner shall pay the amount by which that payment exceeds the amount so determined back to the patient.

[Sub-s. (4) amended by s. 3 of Act 38 of 1982 and by s. 52 (b) of Act 89 of 1997.]

(5) This section shall not be deemed to divest a professional board of any of its powers or functions under Chapter IV with regard to acts or omissions in respect of which it may take disciplinary steps.

[Sub-s. (5) substituted by s. 52 (c) of Act 89 of 1997.]

(6) For the purposes of this section "professional services" shall include the supply of any artificial part for the human body and the fitting of such part to the human body.

53A.

[S. 53A inserted by s. 10 of Act 52 of 1978, amended by s. 8 of Act 43 of 1980 and by s. 1 of Act 66 of 1981 and repealed by s. 8 of Act 58 of 1984.]

54.

[S. 54 repealed by s. 53 of Act 89 of 1997.]

Exemption from operation of provisions of Act

54A. (1) The Minister may in consultation with the council by notice in the *Gazette* exempt any juristic person or class of juristic persons specified in the notice, either generally or subject to such conditions as may be specified in the notice, from the operation of any of the provisions of this Act, so as to enable such juristic person to practise a profession, likewise specified, in respect of which registration in terms of this Act is a prerequisite for practising.

[Sub-s. (1) substituted by s. 54 (a) of Act 89 of 1997.]

(2) Any reference in this Act or any other law to a person registered in terms of this Act to practise a profession referred to in subsection (1) or to a partner of or a partnership in relation to such registered person, shall be deemed to include a reference to a juristic person referred to in subsection (1) or to a member of such a juristic person, as the case may be, unless the context otherwise indicates.

(3) The Minister may in consultation with the council at any time by notice in the *Gazette* amend or repeal any notice issued under subsection (1).

[Sub-s. (3) substituted by s. 54 (b) of Act 89 of 1997.]

[S. 54A inserted by s. 16 of Act 58 of 1992.]

Penalty for false representation inducing registration, for false entries in register and for impersonation

55. Any person who-

(a) procures or attempts to procure for himself or any other person registration under this Act or any certificate, order or prescription referred to in this Act by means of a false representation, whether verbally or in writing, or aids or abets any person in so doing;

(b) makes or causes to be made any unauthorized entry or alteration in or removal from a register or certified copy thereof or extract therefrom or on any certificate issued under this Act;

(c)

[Par. (c) deleted by s. 55 of Act 89 of 1997.]

(d) wilfully destroys or damages or renders illegible or causes to be destroyed, damaged, or rendered illegible any entry in the register or, without the permission of the holder thereof, any certificate issued under this Act;

(e) forges or, knowing it to be forged, utters any document purporting to be a certificate issued under this Act;

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- (f) impersonates any person registered in terms of this Act; or
- (g) supplies or offers to supply to any person not registered under this Act or the Nursing Act, 1978 (Act 50 of 1978), any instrument or appliance which can be used, or is claimed to be effective, for the purpose of diagnosing, treating or preventing physical or mental defects, illnesses or deficiencies in man, knowing that such instrument or appliance will be used by such unregistered person for the purpose of performing for gain an act which such unregistered person is in terms of the provisions of this Act or the said Nursing Act prohibited from performing for gain,
[Par. (g) substituted by s. 17 of Act 58 of 1992.]

shall be guilty of an offence and on conviction liable to a fine not exceeding one thousand rand.

55A.

[S. 55A inserted by s. 11 of Act 52 of 1978 and repealed by s. 18 of Act 58 of 1992.]

Death of person under anaesthetic

56. The death of a person whilst under the influence of a general anaesthetic or local anaesthetic, or of which the administration of an anaesthetic has been a contributory cause, shall not be deemed to be a death from natural causes as contemplated in the Inquests Act, 1959 (Act 58 of 1959), or the Births, Marriages and Deaths Registration Act, 1963 (Act 81 of 1963).

Commission on prescriptions

57. (1) No medical practitioner or dentist or any other person registered in terms of this Act shall accept or obtain from a pharmacy any commission or other reward in connection with any prescription given by such medical practitioner or dentist or person.

(2) Any medical practitioner or dentist or any other person registered in terms of this Act who contravenes the provisions of subsection (1) shall be guilty of an offence and on conviction liable to a fine as determined by the Minister in consultation with the Minister of Justice by notice in the *Gazette*, and in addition may be dealt with by the professional board in terms of the provisions of Chapter IV.

[S. 57 substituted by s. 56 of Act 89 of 1997.]

58.

[S. 58 repealed by s. 57 of Act 89 of 1997.]

Limitations in respect of unregistered persons

59. (1) No remuneration shall be recoverable in respect of any act specially pertaining to the profession of a registered person when performed by a person who is not

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authorized under this Act to perform such act for gain.

(2) No person other than a registered person holding the necessary qualifications shall be eligible for or entitled to hold any appointment to any establishment, institution, body, organization or association, whether public or private, if such appointment involves the performance of any act which an unregistered person, in terms of the provisions of this Act, may not perform for gain: Provided that nothing in this subsection contained shall be construed as prohibiting the training of health professionals under the supervision of a health professional, or the employment in any hospital or similar institution of any person undergoing training with a view to registration in terms of this Act in respect of any health profession, under the supervision of a health professional.

[Sub-s. (2) amended by s. 58 of Act 89 of 1997.]

Investigation of matters relating to the teaching or training of certain classes of persons

60. (1) Notwithstanding anything to the contrary in any law contained, any person who has been authorized by a professional board in writing to investigate any matter relating to the teaching or training of any class of persons who is undergoing such teaching or training for the purpose of qualifying themselves for the practising of any profession to which the provisions of this Act apply, may, for the purpose of making such investigation, enter any institution or premises utilized in the teaching or training of any such class of person.

[Sub-s. (1) amended by s. 59 of Act 89 of 1997.]

(2) Any person who prevents any person authorized in terms of subsection (1) from entering any institution or premises referred to in that subsection, or who hinders him in the making therein or thereon of any investigation contemplated in that subsection, shall be guilty of an offence and on conviction liable to a fine not exceeding one hundred rand.

Regulations

61. (1) The Minister may, in consultation with the council, make regulations relating to-

- (a) (i) the registration by the council of students in registrable professions studying at any recognised training institution, the fees payable in respect of such registration and the removal by the council from the register in question of the names of such students so registered;
- (ii) the standards of general education required of such students as a condition precedent to such registration;
- (iii) the duration of the curricula to be followed by such students at such training institutions;

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- (iv) the minimum requirements of the curricula and the standards of education and examinations to qualify for registration in terms of this Act, which must be maintained at every training institution offering training in any such profession, in order to secure recognition under this Act of the qualifications in question at such training institutions;
- (b)
 - (i) the minimum age and the standard of general education required of a candidate for examination for a certificate entitling the holder thereof to registration in terms of this Act;
 - (ii) the persons who may be admitted to such examinations;
 - (iii) the courses of study and the training required for such examinations;
 - (iv) the institutions at which such courses or training may be taken or undergone and any other requirements in connection with such study or training;
 - (v) the registration by the council of persons taking or undergoing such courses or training and the fees payable in respect of such registration;
 - (vi) the fees payable by candidates for such examinations;
 - (vii) the appointment and remuneration of examiners for such examinations;
 - (viii) the issue of certificates by the council and any other matter incidental to such examinations or the issue of such certificates;
 - (ix) the nature and duration of the practical training to be undergone by persons who have obtained such certificates but who have not yet been registered, before they may be so registered;
 - (x) the nature and duration of the training to be undergone by any person who has obtained a qualification in a profession prescribed in terms of section 24 or 25, but who is not yet registered as such, before he or she may be registered as such;
- (c) the conditions under which any registered person may practise his or her profession;
- (d) the names which may in terms of section 40(c) not be used;

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- (e)
 - (i) the registration of interns or student interns, where applicable to a registrable profession, including the recording of particulars of their training and proof of the performance thereof;
 - (ii) the hospitals or other institutions at which or the persons with whom such training may be undertaken;
 - (iii) any other matter incidental to the registration or training of interns and student interns, where applicable;
- (f)
 - (i) the registration in terms of section 35, of the specialities or categories of registered persons;
 - (ii) the requirements to be satisfied, including the experience to be obtained, the nature and duration of the training to be undergone and the qualifications to be held by persons before any speciality or category may be registered;
 - (iii) the circumstances under which any applicant for the registration of a speciality shall be exempted from any of such requirements;
 - (iv) conditions in respect of the practices of persons whose specialities or categories have been registered, including conditions restricting the practice of any such person to the speciality or category registered in his or her name;
- (g)
 - (i) the election of members of a professional board required to be elected in terms of section 15;
 - (ii) the requirements for a valid nomination of a candidate for election as a member of a professional board;
- (h) the conduct of an inquiry held in terms of section 42, including-
 - (i) the manner in which complaints or charges brought against a registered person shall be lodged;
 - (ii) the method of summoning an accused person and the penalties for failure or refusal on the part of any such person to attend or for obstructing or interrupting the proceedings;
 - (iii) the continuation of a disciplinary inquiry, after a plea has been lodged, by the committee conducting the inquiry, should one or more members of the committee be unable to continue to serve: Provided that not less than two of the original members of the

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committee are available to continue with the inquiry;

- (iv) the procedure to be followed to lodge an appeal with an appeal committee and the time within which an appeal may be lodged;
- (v) any other matter relating to the conduct of such an inquiry;
- (i) the accreditation by the council of pathology laboratories providing services which fall within the ambit of this Act, the laying down of conditions with which such laboratories must comply to obtain accreditation, and the determination of the fees to be paid by such laboratories in the accreditation process;
- (j) any matter which in terms of this Act is required to be prescribed by regulation; and
- (k) generally, all matters which the Minister considers necessary or expedient to prescribe in order that the purposes of this Act may be achieved, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.

(2) The Minister may, after consultation with the council, if he or she deems it to be in the public interest, amend or repeal any regulation or rule made in terms of this Act.

(3) The provisions of any regulation made under paragraph (e) of subsection (1) relating to fees payable under section 19 (5) may vary according to the reason for the removal of a person's name from the register and the period during which it was so removed.

(4) Any regulation made under this section may prescribe penalties for any contravention thereof or failure to comply therewith.

(5) Any proclamation or notice issued or regulation, rule or order made under this Act may from time to time be amended or repealed by the authority by which it was issued or made.

(6) The Minister shall, not less than three months before any regulation is made under subsection (1), cause the text of such regulation to be published in the *Gazette* together with a notice declaring his or her intention to make such regulation and inviting interested persons to furnish him or her with any comments thereon or any representations they may wish to make in regard thereto.

(7) The provisions of subsection (6) shall not apply in respect of-

- (a) any regulation which, after the provisions of subsection (6) have been complied with, has been amended by the Minister in consequence of

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representations received by him or her in pursuance of the notice issued thereunder; and

- (b) any regulation in respect of which the Minister is advised by the council that the public interest requires it to be made without delay.

[S. 61 amended by s. 10 of Act 33 of 1976, by s. 18 of Act 36 of 1977, by s. 9 of Act 43 of 1980, by s. 4 of Act 38 of 1982, by s. 9 of Act 58 of 1984 and by s. 9 of Act 79 of 1990 and substituted by s. 60 of Act 89 of 1997.]

Rules

61A. (1) The council may make rules relating to-

- (a) the conduct of the business and the procedure at meetings of the council, professional boards, committees of the council and of professional boards and the manner in which minutes of such meetings shall be kept;
- (b) the manner in which contracts shall be entered into on behalf of the council, the accounts of the council shall be kept and the manner in which money accruing to the council shall be disposed of;
- (c) the allowances which may be paid to members of the council or to members of professional boards established in terms of section 15 or to members of committees of the council or professional boards;
- (d) the duties and conditions of service of the registrar and other officers appointed by the council in terms of section 12;
- (e) any fees payable in terms of this Act;
- (f) the forms of the registers to be kept in terms of this Act and of all certificates which may be issued under this Act and the manner in which alterations may be effected in such registers;
- (g) the forms to be completed and the documents to be submitted by applicants for registration or for restoration to the register;
- (h) the returns and information to be furnished by any person registered in terms of this Act;
- (i) the nature and duration of training to be undergone by any person who has obtained a qualification in medicine, dentistry or psychology prescribed in terms of section 24 or 25, but who is not yet registered as a medical practitioner, dentist or psychologist, as the case may be, before he or she may be registered as such;

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- (j) the circumstances under which any person referred to in paragraph (i) shall be entitled to exemption from such training;
- (k) the minimum ages of persons eligible for registration in terms of this Act;
- (l) the qualifications which may be registered as additional qualifications in terms of section 35; and
- (m) any matter which in terms of this Act is required to be or may be promulgated as rules.

(2) The council shall, not less than three months before any rule is made in terms of this Act, cause the text of such rule to be published in the *Gazette* together with a notice declaring the council's intention to make such rule and inviting interested persons to furnish the council with any comments thereon or any representations they may wish to make in regard thereto.

[S. 61A inserted by s. 61 of Act 89 of 1997.]

Levying of annual fees on certain registered persons

62. (1) The Minister may, on the recommendation of the council, at any time by notice in the *Gazette* authorize a professional board to prescribe a fee to be paid annually to the professional board by the registered persons concerned: Provided that in prescribing such fee the professional board may differentiate between persons according to whether they have been registered before or after a date specified in the notice and may vary such fee according to whether it is paid before or after a specific date.

(2) If any person liable to pay any annual fee prescribed in terms of subsection (1) fails or refuses to pay such fee within the period specified in the notice in question, the professional board may recover such fee by action in a competent court.

(3) If a person's name has been removed from the register in terms of the provisions of section 19 (1) (d), it shall be a condition precedent for the restoration of his or her name to the register that he or she pays the outstanding annual fee.

(4) The professional board may by resolution exempt for an indefinite or definite period any registered person specified in the resolution from payment of any annual fee prescribed in terms of subsection (1).

[S. 62 amended by s. 10 of Act 79 of 1990 and substituted by s. 62 of Act 89 of 1997.]

63.

[S. 63 amended by s. 11 of Act 79 of 1990 and repealed by s. 63 of Act 89 of 1997.]

Abolition of Interim National Medical and Dental Council of South Africa, and transitional provisions

63A. (1) (a) The Interim National Medical and Dental Council of South Africa shall

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cease to exist on the day immediately preceding the date of the first meeting of the council, and all rights, obligations, assets and liabilities acquired or incurred, as the case may be, by the Interim National Medical and Dental Council of South Africa shall immediately vest in the council and the council shall be deemed to have acquired or incurred such rights, obligations, assets and liabilities in terms of this Act.

(b) The Minister may extend the terms of office of the members of professional boards existing before the commencement of the Medical, Dental and Supplementary Health Service Professions Act, 1997, by notices in the *Gazette*.

(2) (a) The registrar of deeds concerned shall, at the request of the council and on submission of the relevant title deeds and other documents, make the necessary entries and endorsements in respect of his or her registers and other documents in order to give effect to a transfer in terms of subsection (1).

(b) No transfer duty, stamp duty or other fees shall be payable in respect of such transfer, entry or endorsement.

[S. 63A inserted by s. 5 of Act 38 of 1982 and substituted by s. 12 of Act 18 of 1995 and by s. 64 of Act 89 of 1997.]

Repeal of laws

64. (1) Subject to the provisions of subsections (2), (3) and (4), the laws specified in the Schedule are hereby repealed to the extent set out in the third column of the said Schedule.

(2) Any proclamation, notice, regulation, rule, authorization or order issued, made or granted, or any registration, removal from a register, appointment or any other thing done in terms of a provision of any law repealed by subsection (1), shall, except in so far as may be otherwise required by this Act, be deemed to have been issued, made, granted or done under the provisions of this Act.

(3) The members of the council as constituted immediately prior to the commencement of this Act shall continue to be members, and the council shall be deemed to be validly constituted in terms of this Act, until a date determined by the Minister and published in the *Gazette*.

(4) If any of the members referred to in subsection (3) vacates his office, the council shall, until the date referred to in that subsection, consist of the remaining members.

65.

[S. 65 repealed by s. 19 of Act 58 of 1992.]

Short title and commencement

66. This Act shall be called the Health Professions Act, 1974, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

[S. 66 substituted by s. 65 of Act 89 of 1997.]

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Schedule

LAWS REPEALED

<i>No. and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>
Act 13 of 1928	Medical, Dental and Pharmacy Act, 1928	The whole except sections 83 and 83bis
Act 2 of 1935	Medical, Dental and Pharmacy Amendment Act, 1935	The whole
Act 5 of 1937	Medical, Dental and Pharmacy Amendment Act, 1937	The whole
Act 41 of 1944	Medical, Dental and Pharmacy Act Amendment Act, 1944	The whole
Act 30 of 1945	Dental Technicians Act, 1945	Section 35
Act 14 of 1946	Medical, Dental and Pharmacy Amendment Act, 1946	The whole
Act 13 of 1950	Medical, Dental and Pharmacy Amendment Act, 1950	The whole
Act 23 of 1951	Medical, Dental and Pharmacy Amendment Act, 1951	The whole
Act 29 of 1954	Medical, Dental and Pharmacy Amendment Act, 1954	The whole
Act 11 of 1957	Medical, Dental and Pharmacy Amendment Act, 1957	The whole
Act 69 of 1961	Medical, Dental and Pharmacy Amendment Act, 1961	The whole
Act 34 of 1962	Medical, Dental and Pharmacy Amendment Act, 1962	The whole
Act 44 of 1969	Medical, Dental and Pharmacy Amendment Act, 1969	The whole
Act 41 of 1971	Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971 Sections 54 to 61 inclusive	
Act 43 of 1971	Medical, Dental and Pharmacy Amendment Act, 1971	The whole

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Schedule (Continue)**LAWS REPEALED**

<i>No. and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>
Act 95 of 1971	Drugs Laws Amendment Act, 1971	Sections 1 to 6 inclusive
Act 16 of 1973	Medical, Dental and Pharmacy Amendment Act, 1973	The whole