

ALLIED HEALTH PROFESSIONS ACT 63 OF 1982

[ASSENTED TO 26 MARCH 1982]
[DATE OF COMMENCEMENT: 1 AUGUST 1982]

as amended by:

Associated Health Service Professions Amendment Act 108 of 1985
Associated Health Service Professions Amendment Act 10 of 1990
Medicines and Related Substances Control Amendment Act 94 of 1991
Medical Schemes Amendment Act 23 of 1993
Associated Health Service Professions Amendment Act 63 of 1993
Chiropractors, Homeopaths and Allied Health Service Professions Amendment Act 40 of 1995
Abolition of Restrictions on the Jurisdiction of Courts Act 88 of 1996
Chiropractors, Homeopaths and Allied Health Service Professions Amendment Act 91 of 1997
Chiropractors, Homeopaths and Allied Health Service Professions Amendment Act 6 of 2000
Chiropractors, Homeopaths and Allied Health Service Professions Second Amendment Act 50 of 2000

ACT

To provide for the control of the practice of allied health professions, and for that purpose to establish an Allied Health Professions Council of South Africa and to determine its functions; and to provide for matters connected therewith.

1. Definitions

(1) In this Act, unless the context otherwise indicates -

'acupuncturist' means a person registered as such under this Act in respect of the profession of Chinese medicine and acupuncture;

'allied health profession' means the profession of ayurveda, Chinese medicine and acupuncture, chiropractic, homeopathy, naturopathy, osteopathy, phytotherapy, therapeutic aromatherapy, therapeutic massage therapy or therapeutic reflexology, or any other profession contemplated in section 16(1) to which this Act applies;

'annual fees' means the annual fees contemplated in section 38(1)(r);

'ayurveda practitioner' means a person registered as such under this Act;

'chairperson' means the chairperson contemplated in section 7(1);

'chiropractor' means a person registered as such under this Act;

'council' means the Allied Health Professions Council of South Africa established by section 2;

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

'educational institution' means any university or technikon established by an Act of Parliament and approved by the council to offer training in any profession for which a register has been established in terms of this Act or any private school registered with the Department of Education and approved by the council to offer such training;

'examining authority' means any person or group of persons approved by the council to conduct examinations in any subject falling under any profession registered in terms of this Act;

'homeopath' means a person registered as such under this Act;

'intern' means a person registered as such in terms of section 19;

'medical practitioner' means a person registered as such under the Health Professions Act, 1974 (Act 56 of 1974);

'Minister' means the Minister of Health;

'naturopath' means a person registered as such under this Act;

'osteopath' means a person registered as such under this Act;

'phytotherapist' means a person registered as such under this Act;

'practitioner' means a person registered as an acupuncturist, ayurveda practitioner, chiropractor, homeopath, naturopath, osteopath or phytotherapist, in terms of this Act;

'prescribed' means prescribed by regulation;

'profession' means any allied health profession;

'professional board' means a professional board established under section 10A;

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

'register', as a noun, means a register kept in terms of this Act, and when used in relation to any category or any member of any category of persons

in respect of whom a register is kept, the register kept in respect of that category; and as a verb, means to enter in a register under this Act, and the words 'registered' and 'registration' and all other words derived from the word 'register' shall have a corresponding meaning;

'registrar' means the registrar of practitioners and students appointed under section 11(1);

'registration certificate' means a registration certificate issued in terms of any regulation made under section 38(1)(g);

'regulation' means any regulation made under this Act;

'rule' means any rule made under this Act;

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

'student' means any person registered as such in terms of section 18(1);

'student-intern' means a person registered as such in terms of section 19;

'therapeutic aromatherapist' means a person registered as such under this Act;

'therapeutic massage therapist' means a person registered as such under this Act;

'therapeutic reflexologist' means a person registered as such under this Act;

'therapist' means a person registered as a therapeutic aromatherapist, therapeutic massage therapist or therapeutic reflexologist in terms of this Act;

'this Act' includes any regulation, rule and order made or issued under this Act;

'unprofessional conduct' means improper, disgraceful, 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;

'vice-chairperson' means the vice-chairperson contemplated in section 7(1).

(2) For purposes of this Act -

- (a) a practitioner may-
 - (i) diagnose, and treat or prevent, physical and mental disease, illness or deficiencies in humans;
 - (ii) prescribe or dispense medicine; or
 - (iii) provide or prescribe treatment for such disease, illness or deficiencies in humans;
- (b) a therapist may-
 - (i) treat or provide treatment for diagnosed disease, illness or deficiencies in humans; or
 - (ii) prevent such disease, illness or deficiencies in humans; and
- (c) any reference in this Act, except in section 16(3), (4), (5) and (6), to practitioner includes a therapist.

CHAPTER 1

THE ALLIED HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA: ESTABLISHMENT, OBJECTS AND FUNCTIONS (ss 2-13)

2. Establishment of Allied Health Professions Council of South Africa

- (1) There is hereby established a juristic person to be known as the Allied 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.

3. Objects of council

The objects of the council shall be-

- (a) to assist in the promotion and protection of the health of the population of the Republic;
- (aA) to govern, administer and set policy relating to the professions registered with the council;
- (b) to control the practice of the professions and to investigate in accordance with the provisions of this Act complaints relating to the affairs of practitioners and students;
- (c) to control the registration of persons in respect of any profession and to set standards for the training of intending practitioners;

- (d) to advise the Minister on any matter falling within the scope of this Act as it relates to the professions registered with the council;
- (e) to make recommendations to the Minister within a period of 12 months calculated as from the date of commencement of the Chiropractors, Homeopaths and Allied Health Service Professions Second Amendment Act, 2000, on the constitution of the council with due regard to the number of persons registered in terms of this Act in respect of every profession: Provided that-
 - (i) registers for Chinese medicine and acupuncture, therapeutic aromatherapy, therapeutic massage therapy and therapeutic reflexology must be opened within a period referred to in paragraph (e); and
 - (ii) each profession shall not have more than three representatives on the council;
- (f) to advise the Minister on the amendment or adaptation of this Act so as to place greater emphasis on professional practice, democracy, transparency, equity, accessibility and community involvement; and
- (g) to communicate to the Minister information, on matters of public importance, acquired by the council in the course of the performance of its functions under this Act.

4. General powers of council

The council may-

- (a) publish the contents of the registers;
- (b) make extracts from the registers upon payment of the prescribed fees;
- (c) in such circumstances as may be prescribed, or where otherwise authorised by this Act, cause any name to be added to the register or to be removed from the register or, upon payment of the prescribed fees, cause any such name to be restored thereto;
- (d) in consultation with the relevant professional board, appoint examiners and moderators, conduct examinations and award certificates, and charge the prescribed fees in respect of such examinations and the issue of such certificates;
- (e) acquire, hire or dispose of property, borrow money against security of the assets of the council, accept any donation or accept and administer any trust;

- (eA) consult with the relevant professional board on matters pertaining to a registered profession;
- (f) consider any matter affecting the professions and make representations or take such action in connection therewith as the council may deem necessary;
- (g) conduct or arrange courses for the continuing professional development of practitioners and accredit any provider to conduct such courses;
- (gA) approve any clinic established by any practitioner or group of practitioners or university or technikon or other training institution after consultation with the relevant professional board;
- (h) perform such other functions as may be prescribed; and

generally do all such things as it may deem necessary or expedient for the purpose of achieving the objects of this Act.

5. Constitution of council

- (1) The council shall consist of the following members, namely-
 - (a) ten persons elected in the prescribed manner of whom-
 - (i) one is registered as an acupuncturist and has been elected in the prescribed manner;
 - (ii) one is registered as an ayurvedic practitioner and has been elected in the prescribed manner;
 - (iii) one is registered as a chiropractor and has been elected in the prescribed manner;
 - (iv) one is registered as a homeopath and has been elected in the prescribed manner;
 - (v) one is registered as a naturopath and has been elected in the prescribed manner;
 - (vi) one is registered as an osteopath and has been elected in the prescribed manner;
 - (vii) one is registered as a phytotherapist and has been elected in the prescribed manner;
 - (viii) one is registered as a therapeutic aromatherapist and has been elected in the prescribed manner;

- (ix) one is registered as a therapeutic massage therapist and has been elected in the prescribed manner; and
 - (x) one is registered as a therapeutic reflexologist and has been elected in the prescribed manner; and
- (b) six persons appointed by the Minister of whom-
 - (i) one person shall represent the Department of Health;
 - (ii) one person shall be appointed on account of his or her knowledge of the law; and
 - (iii) four persons shall be community representatives.
- (2) The Minister shall appoint the community representatives referred to in subsection (1) (b) (iii) after the registrar has obtained nominations in the prescribed manner.
- (3) After the Minister has appointed the community representatives referred to in subsection (1) (b) (iii), the Minister shall inform the registrar in writing of the names of such community representatives.
- (4)
 - (a) The community representatives referred to in subsection (1)(b)(iii) shall be persons who have expertise in the fields of health, education and welfare, but who are not registered under this Act.
 - (b) Each of the community representatives appointed to the council by the Minister shall also serve as the community representative on one of the professional boards established in terms of this Act.
- (5) The names of the members of the council and the date of commencement of their period of office shall be published by the registrar in the Gazette as soon as possible after the constitution of the council.
- (6) Subject to the provisions of section 6, a member of the council shall hold office for a period of five years, but shall be eligible for re-election for one more term.
- (7) Not less than six months prior to the date of expiry of the term of office of the members of the council, the persons or bodies referred to in subsection (1) shall inform the registrar in writing of the names of the persons elected by them in terms of that subsection.
- (8) As soon as possible after the process referred to in subsection (7), the Minister shall inform the registrar of the names of the persons appointed by the Minister in terms of subsection (1) (b).

- (9) If any of the persons or bodies referred to in subsection (1) fails to elect a person or persons as required or to inform the registrar in terms of subsection (7) of the names of the persons to be elected 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 relevant provision of subsection (1).

6. Disqualification for appointment as member, vacation of office by members and filling of vacancies on council

- (1) No person-
- (a) who is an unrehabilitated insolvent;
 - (b) who in terms of this Act or the Health Professions Act, 1974 (Act 56 of 1974), is disqualified from practising his or her profession;
 - (c) who is not a South African citizen permanently resident in the Republic,
- shall be appointed as a member of the council.
- (2) A member of the council shall vacate his or her office if he or she-
- (a) becomes subject to any disqualification contemplated in subsection (1);
 - (b) ceases to hold any qualification necessary for his or her appointment;
 - (c) has been absent from more than two consecutive ordinary meetings of the council without the council's leave;
 - (d) was appointed by the Minister and tenders his or her resignation in writing to the Minister and the Minister accepts his or her resignation;
 - (dA) was elected by a professional board and tenders his or her resignation to the council and the council accepts his or her resignation;
 - (e) becomes a patient or State patient as defined in section 1 of the Mental Health Act, 1973 (Act 18 of 1973);
 - (f) is convicted in the Republic or elsewhere of an offence for which he or she is sentenced to imprisonment without the option of a fine; or

(h) becomes impaired to the extent that he or she is unable to carry out his or her duties as a member of the council.

(3) Any vacancy on the council arising from a circumstance referred to in subsection (2) or caused by the death of a member, shall be filled by appointment or election, as the case may be, by the person or body by whom and in the manner in which the vacating member was required to be appointed or elected, and every member so appointed or elected shall hold office for the unexpired portion of the period of office of the vacating member.

7. Office-bearers

(1) The council shall annually, in the prescribed manner, elect a chairperson and a vice-chairperson.

(2) The chairperson or vice-chairperson of the council may vacate his or her office as chairperson or vice-chairperson without terminating his or her membership of the council.

(3) The chairperson and vice-chairperson may be re-elected for one further term of office.

8. Meetings of council

(1) The council shall meet at the times and places determined by the council, but shall meet at least twice in every year.

(2) (a) The chairperson 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 the written request of the Minister or a written request signed by a majority of the members of the council, convene a special meeting, to be held within 30 days after the date of receipt by him of the request, on such date and at such place as he may determine.

(b) Any such written request shall state clearly the purpose for which the meeting is to be convened.

9. Executive committee of council

(1) There shall be an executive committee of the council, which shall be constituted as prescribed.

(2) The executive committee of the council may, subject to the directions of the council, during periods between meetings of the council perform all the functions of the council, but shall not have the power, except in so far as the council otherwise directs, to amend or set aside any decision of the council, and any act performed or decision made by the executive

committee shall be of force and effect unless it is amended or set aside by the council at its next ensuing meeting.

10. Other committees of council

- (1) The council may from time to time establish such other committees, constituted as prescribed, as it may deem necessary, to investigate and report to the council on any matter falling within the scope of its functions.
- (2)
 - (a) Subject to the provisions of subsection (3), the council may delegate to any committee established under subsection (1) such of its powers as the council may from time to time determine.
 - (b) The council shall not be divested of any power so delegated and may amend or set aside any decision of any such committee made in the exercise of any such power.
- (3) No penalty imposed by any committee established under subsection (1), other than a caution or a reprimand or a reprimand and a caution, shall be of force and effect until confirmed by the council: Provided that an order made by any such committee shall, if the committee so directs in the public interest, come into operation forthwith, but shall then lapse after the expiration of a period of six months unless confirmed by the council within that period.

10A Establishment of professional boards

- (1) The Minister may, on the recommendation of the council and by notice in the Gazette, 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.
- (2) The Minister may, on the recommendation of the council, disestablish any professional board contemplated in subsection (1), and may establish one or more professional boards in its stead.
- (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 disestablishment or establishment.
- (4) The Minister may, on the recommendation of the council, make regulations relating to the constitution, functions, functioning and term of office of members 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 persons registered in the profession in question;
 - (b) one person representing the community who is not registered under this Act, to be appointed to each professional board by the Minister and such person to also serve on the council;
 - (c) the establishment by a professional board of such committees as it may deem necessary, each consisting of as many persons appointed by the professional board as such professional board may determine, but including at least one member of the board who shall be the chairperson of such committee;
 - (d) the procedure to be followed for the appointment and election, as the case may be, of members of a professional board;
 - (e) the election of a chairperson and vice-chairperson by the members of a professional board and the powers and duties of such a chairperson and vice-chairperson; and
 - (f) the term of office of the members of a professional board.
- (6) Any professional board established under this section may make representations to the council for the making, amendment or withdrawal of any regulation or rule which shall apply or applies to such professional board or the profession in respect of which such professional board was established.
- (7) (a) Subject to paragraph (b), the council may delegate to any professional board such of its powers as the council may determine.
- (b) The council shall not be divested of any power so delegated and may amend or set aside any decision of a professional board made in the exercise of any such power.

10B. Disqualification for appointment as member, vacation of office by members and filling of vacancies on professional boards

- (1) No person who-
- (a) is an unrehabilitated insolvent;
 - (b) in terms of the Health Professions Act, 1974 (Act 56 of 1974), is disqualified from practising his or her profession; or
 - (c) is not a South African citizen permanently resident in the Republic,
- shall be a member of a professional board.

- (2) A member of a professional board shall vacate his or her office if he or she-
- (a) becomes subject to any disqualification contemplated in subsection (1);
 - (b) ceases to hold any qualification necessary for his or her appointment;
 - (c) has been absent from more than two consecutive ordinary meetings of the professional board concerned without such professional board's leave;
 - (d) tenders his or her resignation in writing to the chairperson of the professional board;
 - (e) becomes a patient or State patient as defined in section 1 of the Mental Health Act, 1973 (Act 18 of 1973);
 - (f) is convicted in the Republic or elsewhere of an offence for which he or she is sentenced to imprisonment without the option of a fine; or
 - (g) becomes impaired to the extent that he or she is unable to carry out his or her duties as a member of the professional board.
- (3) Every vacancy on a professional board arising from a circumstance referred to in subsection (2) and every vacancy caused by the death of a member, shall be filled as prescribed and every member appointed in terms of this subsection shall hold office for the unexpired portion of the period for which the vacating member was appointed.

10C. Objects of professional boards

- (1) The objects of a professional board are-
- (a) to advise the council on any matter, falling within the scope of this Act, that 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 emphasis on professional practice, democracy, transparency, equity, accessibility and community involvement;
 - (b) to consult and liaise with other professional boards on matters affecting the professional board;
 - (c) to advise the council 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 education and training contemplated in paragraph (c) and to promote the standards of such training in the Republic and elsewhere;
- (e) to communicate to the council information, on matters of public importance, acquired by the professional board in the course of the performance of its functions under this Act;
- (f) to maintain and enhance the dignity of the profession and the integrity of the persons practising the profession; and
- (g) to guide the profession and to protect the public.

10D Powers of professional board

A professional board may-

- (a) in such circumstances as may be prescribed, recommend to the council that any name be removed from a register or, upon payment of the prescribed fee, that such name be restored thereto, or that a registered person be suspended from practising his or her profession pending the institution of an inquiry in terms of section 23;
- (b) recommend to the council the appointment of examiners and moderators;
- (c) conduct examinations and grant certificates, and charge such fees in respect of such examinations or certificates as may be prescribed;
- (d) subject to prescribed conditions, recommend to the council the approval of training schools;
- (e) report to the council on any matter affecting the profession in respect of which such professional board has been established and on any matter referred to it by the council: Provided that when such a report is considered by the council, the chairperson of the professional board concerned shall-
 - (i) be present or be represented at the meeting at which such report is considered by the council;
 - (ii) have the right to address the council concerning any matter dealt with in such report;
 - (iii) have the right to vote if any vote is taken at such meeting in respect of such matter; and

- (iv) have all the rights and duties of a member of the council attending such meeting;
- (f) make representations to, or by the mediation of, the council for the making, amendment or withdrawal of any regulation or rule which applies to such professional board or the profession in respect of which such professional board was established;
- (g) perform such other function 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.

11. Appointment of registrar and staff

- (1) The council-
 - (a) shall appoint a registrar; and
 - (b) may appoint such other persons as it may deem necessary for carrying out its functions,

on such conditions (including the payment of remuneration and allowances) as it may determine, and may dismiss any person so appointed.
- (2) The registrar shall act as secretary to the council and to each professional board and shall in that capacity perform, in addition to such functions as may otherwise be assigned to him or her by or under this Act, such functions as may from time to time be assigned to him or her by the council.
- (3) The registrar and staff members shall not be persons registered in professions regulated by this Act.
- (4) The registrar may in writing authorise any member of his or her staff to exercise any power or perform any duty conferred or imposed on him or her by or in terms of this Act.
- (5) The appointment or dismissal of the registrar shall be subject to the approval of the Minister.

12. Funds of the council

- (1) All fees payable in terms of this Act shall be paid to the council and shall, together with such money as may be obtained or received by the council from any other source, constitute the funds of the council, and the council

shall utilize its funds for defraying expenses incurred in connection with the performance of its functions.

- (2) The council may invest any moneys not required for immediate use and may establish such reserve funds and deposit such amounts therein as it may deem necessary or expedient.
- (3) The council may make financial grants from its own funds to assist in the financial operation of a professional board if it is convinced that such a professional board cannot be adequately financed by its registered practitioners.
- (4) All professional boards shall submit audited income and expenditure statements to the council on an annual basis.

13. Rectification of errors and validation of irregular acts

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

CHAPTER 2

REGISTRATION OF PRACTITIONERS AND STUDENTS (ss 14-22)

Registration of practitioners

14. Keeping of registers

- (1)
 - (a) The registrar shall keep registers in respect of all persons whose applications for registration have been approved by the council after the commencement of the Associated Health Service Professions Amendment Act, 1985.
 - (b) Separate registers shall be so kept in respect of the different professions as well as in respect of practitioners and students, respectively.
 - (c) The registrar shall enter the prescribed particulars regarding each such person in the appropriate register.
- (2) The registers kept by the registrar in terms of this Act up to the date immediately preceding the date of the commencement of the Associated Health Service Professions Amendment Act, 1985, shall be incorporated with and form part of the appropriate registers required to be kept in terms of subsection (1).

- (3) The registrar shall, at intervals to be determined by the council and according to the instructions and under the authority of the council-
 - (a) publish a list containing such particulars as the council may determine of the entries in each register required to be kept in terms of subsection (1); and
 - (b) publish a supplementary list containing such particulars as the council may determine of the additions, amendments and deletions effected in each such register since the last publication of a list in terms of paragraph (a) or in terms of this paragraph.
- (4) Copies of a list or supplementary list published in terms of subsection (3) are obtainable from the registrar on payment of such amount as the council may determine.

15. Registration of practitioners

- (1) Any person who desires to be registered as a practitioner of an allied health profession in terms of this Act, shall in the prescribed manner apply to the council for registration, and such application shall be accompanied by-
 - (a) the qualification which in the applicant's submission entitles him to registration;
 - (b) the prescribed registration fee and, in the case of an applicant who does not possess the prescribed qualification, also the prescribed application fee;
 - (c) proof of identity, citizenship, good character and the authenticity and validity of the qualification submitted; and
 - (d) such further documents and information as may be prescribed.
- (2) For the purpose of considering any application contemplated in subsection (1), the council may require the applicant in support of the application to furnish such further proof, whether orally or in writing, regarding his identity, good character, training and experience, as the council may deem necessary and may require him to sit for such examination as the council may determine.
- (3) The council may request the relevant professional board to consider an application in terms of subsection (1) and if after such investigation and enquiries as the relevant professional board may deem necessary, it is satisfied that the applicant concerned may be registered in terms of this Act, such professional board shall recommend to council the approval of such an application.

- (3A) If the council is satisfied that an applicant may be registered in terms of the Act, it shall approve the application and the registrar shall thereupon register the applicant by-
- (a) issuing an appropriate certificate of registration to him or her; and
 - (b) entering the prescribed particulars in respect of him or her in the appropriate register.
- (4) If the council refuses to approve an application, the applicant concerned shall be notified in writing of such decision and of the grounds on which it is based.
- (5) Any person who is registered or deemed to be registered in terms of this Act shall, in the practice of his or her profession, only state particulars of those degrees, diplomas or certificates entered in the appropriate register against his or her name and any other qualification recommended by the professional board and approved by the council.
- (6) (a) The council may delegate any of the powers conferred upon it by this section to the registrar, but shall not be divested of any power so delegated.
- (b) Any registration or refusal of registration by the registrar in the exercise of a power delegated to him in terms of paragraph (a), shall be of full force and effect, unless it is set aside or amended by the council at its first meeting following upon the date on which such registration or refusal of registration occurred.
- (7) Every person who desires to have a qualification registered, other than the qualification by virtue of which he or she 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.

16. Allied health professions

- (1) The Minister may, at the request of the council, by notice in the Gazette declare the provisions of this Act to be applicable to any profession which has as its object the promotion of health, or the treatment, prevention or relief of physical or mental defects, illnesses or deficiencies in humans, excluding any profession referred to in subsection (1A) or any profession to which the provisions of the Pharmacy Act, 1974 (Act 53 of 1974), the Health Professions Act, 1974 (Act 56 of 1974), the Nursing Act, 1978 (Act 50 of 1978), or the Dental Technicians Act, 1979 (Act 19 of 1979), apply.
- (1A) The professions excluded in terms of subsection (1) are the professions of-
- (a) ayurveda, chiropractic and homeopathy;

- (b) naturopathy, osteopathy and phytotherapy, for which professional registers shall be re-established with effect from the date of commencement of the Chiropractors, Homeopaths and Allied Health Service Professions Second Amendment Act, 2000; and
 - (c) Chinese medicine and acupuncture, therapeutic aromatherapy, therapeutic massage therapy and therapeutic reflexology, for which professional registers shall be established with effect from the date of commencement of the Chiropractors, Homeopaths and Allied Health Service Professions Second Amendment Act, 2000.
- (2) The Minister may, on the recommendation of the council, by regulation define the scope of any allied health profession 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 concerned which has been established in terms of section 10A in respect of any allied health profession and 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 concerned: 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 such fact in its recommendation.
- (3) Subject to the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965), and subject to the approval of the Medicines Control Council, the Minister may, on the recommendation of the council, by regulation prescribe access to and availability of medicines relative to the professions registered in terms of this Act.
- (4)
 - (a) Subject to the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965), every practitioner whose name has been entered in the register of dispensing practitioners contemplated in paragraph (b) may, on such conditions as the council, after consultation with the relevant professional board, may determine in writing, in general or in a particular case, compound or dispense medicine prescribed by himself or herself or by any other practitioner with whom he or she is in partnership or with whom he or she is associated as principal or assistant or locum tenens, for use by a patient under treatment by such practitioner or such other practitioner: Provided that he or she may not keep an open shop or pharmacy.
 - (b) The registrar shall keep a register of practitioners who have the right in terms of this section to dispense scheduled substances and shall, at the direction of the council, enter in the register the name

of a practitioner and such other particulars as the council may determine if the practitioner-

- (i) within three months after the commencement of the Chiropractors, Homeopaths and Allied Health Service Professions Second Amendment Act, 2000, submits proof to the satisfaction of the registrar that immediately before such commencement date he or she compounded or dispensed medicine as contemplated in paragraph (a) in the practice of his or her profession; or
 - (ii) informs the registrar in the prescribed manner of his or her intention to compound or dispense medicine in the practice of his or her profession as contemplated in paragraph (a).
- (5) The council may, after an investigation conducted by the council into the activities of a practitioner with regard to the compounding or dispensing of medicine and in consultation with the relevant professional board, direct that the name of any person be removed from the register contemplated in subsection (4) (b), or prohibit him or her for a specific period from making use of the right contemplated in subsection (4).
- (6) The council may by regulation determine fees to be paid for the entering or re-entering of a name in the register contemplated in subsection (4) (b).

16A Control over training

- (1) Notwithstanding anything to the contrary in any law contained, no person or educational institution shall offer or provide any education or training in any allied health profession to which the provisions of this Act apply, unless such education or training has been considered by the relevant professional board and approved by the council after considering a recommendation by the relevant board.
- (2) Any person or institution wishing to offer or to provide the education or training referred to in subsection (1) shall, before offering or providing such education or training, apply to the council in writing for its approval of such education or training and shall furnish such particulars regarding such education or training as the council may require.
- (3) The council may, after consultation with the relevant professional board, grant or refuse any application made in terms of subsection (2) and may, if it has granted such application, prescribe such conditions and requirements as it may deem fit subject to which the education and training in question may be provided.
- (4) The council may appoint a person to attend examinations in respect of any allied health profession regulated by or under this Act which are being

conducted by a person or institution whose application has been approved by the council in terms of subsection (3).

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

16B Prescribing of qualifications

- (1) Subject to the provisions of subsection (2), the Minister may from time to time, on the recommendation of the council, prescribe the qualifications obtained by virtue of examinations conducted by an educational institution or examining authority which, when held singly or conjointly with any other qualification, may entitle any holder thereof to registration under this Act as a practitioner of an allied health profession, 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 so prescribed: Provided that if a professional board has been established in terms of section 10A (1), the council must first consult the relevant professional board before making a recommendation to the Minister relating to a qualification to be prescribed.
- (2) No qualification obtained by virtue of examinations conducted by an educational institution or examining authority situated outside the Republic shall be prescribed under this section unless-
 - (a) such qualification entitles the holder thereof to practise as a practitioner of an allied health profession, in the country or state in which such educational institution or examining authority is situated; and
 - (b) the council is satisfied that possession of such qualification indicates a standard of professional training not lower than that prescribed in respect of the training of practitioners of allied health professions within the Republic.

16C Temporary registration

- (1) The council may accept a qualification other than a qualification referred to in section 16B, for the purpose of registration under this subsection, if such qualification, in the opinion of the council, indicates a satisfactory standard of professional education, and may, subject to the provisions of subsection (2) and section 15 (1) and (2), register any person as a practitioner of an allied health profession who possesses such qualification and who, in the opinion of the council, possesses sufficient professional knowledge and ability and is proficient in at least one of the official languages of the Republic: Provided that if a professional board has been

established in terms of section 10A (1), the council must first consult the relevant professional board before making a recommendation to the Minister relating to a qualification to be prescribed.

- (2) A person who has been granted temporary registration in terms of subsection (1), may only practise as a practitioner of an allied health profession as prescribed-
 - (a) for such period or periods as the council may determine; and
 - (b) subject to such conditions as the council may determine.
- (3) The council may for the purposes of subsection (2) (a) require the person concerned to sit for such examination or examinations as the council may determine.
- (4) The Minister may from time to time, on the recommendation of the council, make regulations-
 - (a) prescribing the fee to be paid by persons intending to sit for an examination; and
 - (b) prohibiting a person who has failed such examination a prescribed number of times, from sitting again for such an examination.
- (5)

16D Investigation of matters relating to education or training of certain classes of persons

- (1) Notwithstanding anything to the contrary in any law contained, any person who has been authorized by the council in writing to investigate any matter relating to the education or training of any class of persons registered under this Act, may, for the purpose of making such investigation, enter any institution or premises, excluding a university or a technikon established by or under an Act of Parliament and any premises of such a university or technikon, utilized in the education or training of any such class of persons.
- (2) Any person who prevents any person authorised in terms of subsection (1) from entering any institution or premises referred to in that subsection or who hinders him or her in the making therein or thereon of any investigation contemplated in that subsection, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months or to both a fine and such imprisonment.

16E Registration of certain persons so as to enable them to give education or training

- (1) For purposes of promoting education or training in any allied health profession to which this Act applies, the council may, after consultation with the relevant professional board and notwithstanding the provisions of this Act, register any person not permanently resident within the Republic in the profession in which he or she gives education or training, for such period as the council may determine.
- (2) Any person registered in terms of subsection (1), may give education or training at institutions approved for that purpose by the council, relating to the profession concerned, for such period as the council may determine.

16F Educational institutions to furnish council with certain particulars

- (1) Every educational institution at which a qualification can be obtained which entitles any holder thereof to registration under this Act, excluding a university or technikon established by or under an Act of Parliament, shall furnish the council on its request with such information relating to entrance requirements, curricula and syllabuses, examinations and any related matter as the council may from time to time require.
- (2) If any educational institution referred to in subsection (1) fails or refuses to furnish any information 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 educational institution and that such improper compliance is having or may have an adverse effect on the relevant standards of education maintained at that educational institution, the Minister may, on the recommendation of the council, by notice in the Gazette declare that any specified qualification granted by such educational institution after a date specified in the notice shall not entitle any holder thereof to registration under this Act.
- (3) The Minister may, when it appears to him upon representations made by the council that satisfactory provision has been made for complying with the requirements of this Act by any educational institution referred to in subsection (1) in respect of any qualification which is the subject of a notice issued under subsection (2), withdraw the said notice.
- (4) A qualification specified in a notice issued under subsection (2) which has been granted by the educational institution to which such notice relates between the date specified in that notice and the date of withdrawal of that notice, shall not entitle the holder thereof to registration under this Act.
- (5) The council may appoint a person to be present whenever tests are being conducted by any educational institution referred to in subsection (1) in respect of the academic progress made by students at such educational institution and to report to the council upon such tests.
- (6) The person in charge of an educational institution referred to in subsection (1) shall forthwith notify the council of the termination of the education or

training of a student at such institution, whether by reason of the abandonment or completion of education or training or the transfer of such student to another such institution, or for any other reason.

17. Effect of registration as practitioner

Subject to the provisions of this Act, registration confers the right upon a practitioner to practise for gain each profession in respect of which he is registered and in particular to perform for gain any of the acts specially pertaining to each such profession and to indicate each such profession upon his nameplate or in such other manner as may be prescribed.

Registration of students

18. Registration of students

- (1) Any person who enrolls as a student in an allied health profession shall in writing apply to the council for registration as a student, and such application shall be accompanied by the prescribed particulars and registration fee.
- (2) If the council is satisfied that the applicant is entitled to registration as such a student, it shall cause the necessary entry to be made in the register, and the registrar shall thereafter issue to the applicant a registration certificate in the prescribed form.

19. Registration of interns

- (1) Any person who has obtained a qualification which entitles him or her to register as a practitioner of an allied health profession under this Act after the Chiropractors, Homeopaths and Allied Health Service Professions Second Amendment Act, 2000, commences and who wishes to practise such profession in the Republic, shall apply to the council for registration in the prescribed manner.
- (2)
 - (a) A person who has applied for registration in terms of subsection (1) may, on the recommendation of the relevant professional board, be registered by the council as an intern.
 - (b) An intern must complete a prescribed internship programme before he or she may be registered as a practitioner of the profession in question.
- (3) The council may, after consultation with the relevant professional board, register a person who has not yet graduated as a student intern and may permit such student to commence with a prescribed internship programme.
- (4) No person may be registered by the council as a practitioner unless he or she has graduated and has completed the prescribed internship.

- (5) The duration, requirements, conditions and rules pertaining to an internship are as prescribed.

20.

Updating, custody and publication of registers

21. Removal of names from, and restoration thereof to, register

- (1) The council may instruct the registrar, subject to the provisions of subsection (5), to remove the name of any practitioner from the register if the council is satisfied that that practitioner-

- (a) has died;
- (b) has left the Republic permanently or was absent from the Republic without the council's permission for a continuous period of more than three years;
- (c) has failed to pay any fees, including annual fees, which he owes the council, within three months after the date upon which payment became due;
- (d) has failed to notify the registrar of any change in his residential address or postal address or in the address of his practice within three months after any such change;
- (e) has requested that his name be removed from the register, in which case he may be required by the registrar to lodge with him an affidavit or affirmation to the effect that no disciplinary or criminal action is being or is likely to be taken against the first-mentioned;
- (f) has been registered in error or through fraud; or

is unable for any reason to practise the profession for which he or she is registered in terms of this Act.

- (2) Notice of the removal by virtue of the provisions of any one of paragraphs (b) up to and including (f) of subsection (1) of his name from the register shall be given by the registrar to the person concerned by registered letter sent through the post to his address appearing in the register.
- (3) As from the date on which notice was given in terms of subsection (2)-
- (a) any registration certificate issued to the person concerned shall be deemed to be cancelled;

- (b) he shall cease to practise any profession in respect of which he was registered as a practitioner or to perform any act specially pertaining to any profession in respect of which he was registered; and
- (c) he shall cease to indicate any profession of his upon his nameplate or in any other manner,

until his name has been restored to the register.

- (4) The council shall instruct the registrar to restore to the register a name removed therefrom by virtue of the provisions of any one of paragraphs (b) up to and including (f) of subsection (1) if the person concerned-
 - (a) applies on the prescribed form for the restoration of his name to the register;
 - (b) pays the prescribed fee; and
 - (c) complies with such other requirements as the council may determine.
- (5) The council shall not under subsection (1) instruct that the name of any person be removed from any register kept under section 14 unless the council has consulted with the professional board established in respect of the profession concerned.

22. Custody and publication of registers

The registers shall be kept at the office of the registrar, and the council may, at intervals determined by it, cause copies of the registers or supplementary lists showing additions, removals, amendments or revisions effected since the last publication of copies of the complete registers, to be printed and published.

CHAPTER 3

DISCIPLINARY POWERS OF THE COUNCIL (ss 23-30)

23. Inquiry into alleged misconduct

- (1) The council may, in respect of a practitioner registered in any allied health profession in terms of this Act, institute an inquiry into any written complaint, charge or allegation of unprofessional conduct against such practitioner.
- (1A) The council may refer allegations of conduct referred to in subsection (1) to the relevant professional board and delegate to such board the power to investigate such complaint and to hold an inquiry in the prescribed manner.

- (1B) When requested to hold an inquiry, the professional board in question must seek information from any person, including the practitioner against whom the complaint, charge or allegation was lodged and must investigate the matter fully before holding an inquiry.
- (1C) The council or the professional board may, on finding the practitioner concerned guilty of such conduct, in the case of the council, impose any of the penalties referred to in section 24 (1) or, in the case of a professional board, recommend the imposition of any such penalty in terms of subsection (3): Provided that in the case of a complaint, charge or allegation which forms or is likely to form the subject of criminal proceedings, the council or the professional board concerned, as the case may be, may postpone the holding of an inquiry until those proceedings have been disposed of.
- (2) Whenever the council or a professional board, as the case may be, is in doubt as to whether an inquiry shall be held, it may in connection with the complaint, charge or allegation in question consult with or seek information from any person, including the practitioner against whom the complaint, charge or allegation has been lodged.
- (3) If a professional board holding an inquiry under this section, finds the person charged guilty of unprofessional conduct or of conduct which in consideration of the profession in respect of which that person is registered, is unprofessional, it shall note its finding and inform such person thereof, and shall at the same time inform such person of the penalty the imposition of which it intends to recommend to the council, and it shall before the next ensuing meeting of the council submit to the council the minutes of the proceedings at the inquiry together with the recommendation concerning a proper penalty.
- (4) Any person found guilty in terms of subsection (3), may at any time before the next ensuing meeting of the council, submit to the council written representations in regard to the finding made by the professional board and the penalty recommended by it.
- (5) If the council, after having considered the minutes kept by the professional board, and the representations referred to in subsection (4), is of the opinion-
- (a) that the finding should not be upheld, it shall set such finding aside, and inform the person and the professional board concerned thereof; or
- (b) that the finding is correct, it may impose upon the person concerned any penalty referred to in section 24.
- (6) The provisions of sections 24(2) up to and including (8) and 25 shall mutatis mutandis apply in respect of any inquiry conducted by any

professional board referred to in subsection (1), and for the purposes of the said provisions any reference in section 24 -

- (a) to the chairperson of the council shall be deemed to be a reference to the chairperson of such professional board;
- (b) to the prescribed form of a summons shall be deemed to be a summons as prescribed for use by a professional board.

24. Penalties for misconduct and procedure at inquiry by council

- (1) Any practitioner who after the holding of an inquiry referred to in section 23 (1) is found guilty of unprofessional conduct or of conduct which in consideration of any profession in respect of which that practitioner is registered, is unprofessional, shall be liable to one or other of the following penalties, namely-
 - (a) a caution or a reprimand or a reprimand and a caution; or
 - (b) suspension for a specified period from practising any profession in respect of which he is registered or from performing any act specially pertaining to any profession in respect of which he is registered;
 - (c) removal of his name from the register; or
 - (d) a fine not exceeding the prescribed amount.
- (2) Any penalty imposed under subsection (1) shall be reduced to writing, signed by the chairperson of the council and made known to the practitioner concerned, and thereafter the registrar shall cause the name of that practitioner and the penalty so imposed to be published in the Gazette.
- (3)
 - (a) The council, or any committee of the council, or a professional board, where any such committee or professional board holds an inquiry under powers delegated to it by the council, may for purposes of any such inquiry take evidence and may, under the hand of the chairperson of the council or the chairperson of any such committee or board or the secretary of the council, summon any witness and require the production of any book, record, document or article, and may through the chairperson concerned administer the oath to or accept an affirmation from any witness, and may examine any book, record, document or article which a witness has been so required to produce.
 - (b) A summons to appear before the council or the committee concerned as a witness or to produce to it any book, record, document or article, shall, as nearly as practicable, be in the prescribed form and shall be served either by registered letter sent

through the post or in the same manner as a subpoena in civil proceedings in a magistrate's court.

- (c) Any person who has been duly summoned under this subsection and who-
- (i) refuses, or without sufficient cause fails, to attend at the time and place specified in the summons and give evidence relevant to the inquiry;
 - (ii) refuses to take the oath or to make an affirmation when required to do so by the chairperson concerned;
 - (iii) refuses to produce any book, record, document or article which he has in terms of the summons been required to produce; or
 - (iv) attends before the council or the committee concerned but refuses to answer or to answer fully and satisfactorily to the best of his knowledge and belief any question lawfully put to him,

shall be guilty of an offence and on conviction liable to a fine, or to imprisonment for a period not exceeding three months: Provided that a person so summoned shall be entitled to all the privileges to which a witness subpoenaed to give evidence before a provincial division of the High Court is entitled.

- (4) The chairperson of the council, where the council itself holds any such inquiry, or the chairperson of any professional board, or committee of the council, holding any such inquiry, may appoint a person with adequate experience in the administration of justice as an assessor at the inquiry to advise the council, the professional board or the committee concerned, as the case may be, on matters of law, procedure or evidence.
- (5) In any case where the evidence in support of any complaint, charge or allegation is of a documentary nature, and in any other case which the council may think fit, the secretary of the council may act as pro forma complainant at the inquiry concerned.
- (6) Any practitioner whose conduct is being inquired into in terms of section 23(1), shall at the inquiry concerned be afforded the opportunity of personally or through his legal representative answering the complaint, charge or allegation concerned and being heard in his defence.
- (7) The council may on such conditions as it may determine-
 - (a) terminate any suspension imposed under subsection (1)(b) before the expiry of the specified period; and

- (b) on payment of the prescribed fee, restore to the register any name which has been removed therefrom by virtue of a penalty imposed under subsection (1) (c).
- (8) (a) A penalty imposed under subsection 1 (d) shall be paid to the registrar within 14 days after such imposition.
- (b)
- (c) The imposition of a penalty in terms of subsection (1) (d), shall have the effect of a civil judgment of the magistrate's court of the district in which the inquiry by the council took place.
- (9) If any person registered in terms of this Act is alleged to be guilty of unprofessional conduct or conduct which, in consideration of the profession in respect of which that person is registered, is unprofessional, and the council or a professional board is of the opinion that on conviction after an inquiry under section 23, a fine not exceeding the prescribed amount shall be imposed on him or her, the council or professional board may issue a summons as prescribed against such person upon which an endorsement is made by the council or a professional board that such person may admit that he or she is guilty of the said conduct and that he or she may pay the fine stipulated.
- (10) If a person summoned in terms of subsection (9), admits his guilt in respect of the conduct referred to in subsection (1) by paying the stipulated fine to the council before a date specified in the summons, an inquiry shall not be held under section 23.
- (11) Payment of a fine in terms of subsection (10) shall not be regarded as a previous conviction with regard to any subsequent inquiry into the conduct of such person and shall not be published in the Gazette in terms of subsection (2).
- (12) The Minister may, on the recommendation of the council, by notice in the Gazette amend the amount referred to in subsection (9).

25. Postponement of imposition, and suspension of execution, of penalty or part thereof

- (1) Where the council finds any practitioner guilty of conduct referred to in section 24(1) or imposes a penalty in terms of section 23(5)(b), it may-
 - (a) postpone the imposition of a penalty for such period and on such conditions as it may determine; or
 - (b) impose any penalty referred to in section 24(1)(b), (c) or (d), but order the execution of the penalty (or any part thereof in the case of

a penalty referred to in section 24(1)(b)) to be suspended for such period and on such conditions as it may determine.

- (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 council is satisfied that the practitioner concerned has observed all the relevant conditions, the council shall inform him that no penalty will be imposed upon him.
- (b) If the execution of a penalty or any part thereof has been suspended in terms of subsection (1) (b) and the council is satisfied that the practitioner concerned has observed all the relevant conditions throughout the period of suspension, the council shall inform him that the penalty will not be executed.
- (c) If the execution of a penalty or any part thereof has been suspended in terms of subsection (1) (b) and the practitioner concerned fails to observe any one of the conditions of suspension, the council shall execute the penalty unless that practitioner satisfies the council that the non-observance of the condition concerned was due to circumstances beyond his control.

26. Effect of suspension or removal of name from register and restoration of name to register

- (1) Any practitioner who has under this Act been suspended from the practice of any profession in respect of which he is registered or any former practitioner whose name has been removed from the register by virtue of any penalty imposed under section 24 (1) (c), or 32 (3), shall be disqualified from practising any profession in respect of which he is or was registered, as the case may be, or from performing any Act specially pertaining to any such profession, and any registration certificate issued to him shall be deemed to be cancelled, and he shall cease to indicate any such profession, and any registration certificate issued to him shall be deemed to be cancelled, and he shall cease to indicate any such profession upon his nameplate or in any other manner, until-
 - (a) in the case of a suspension, the period of suspension has expired; or
 - (b) in the case of a removal of his name from the register, his name has been restored to the register.
- (2)
- (3) The council may -
 - (a) after the expiry of such period as the council may in each case determine;

(b) upon receipt of a written application by a person referred to in subsection (1) whose name has been removed from the register; and

(c) upon payment of the prescribed fees,

instruct the registrar to restore the name of that person to the register on such conditions as the council may determine.

27. Cognizance by council or professional board of certain conduct of practitioners

(1) Any practitioner who, either before or after registration, has been convicted in the Republic or elsewhere of any offence, may be dealt with by the council or a professional board concerned in terms of this Chapter if the council or professional board concerned is of the opinion that the offence concerned constitutes conduct which is improper or disgraceful or which in consideration of any profession in respect of which the practitioner concerned is registered, is improper or disgraceful, and that practitioner shall, upon proof of the conviction, be liable to one or other of the penalties referred to in section 24 (1): Provided that the said practitioner shall, before any penalty is imposed, be afforded the opportunity of tendering an explanation to the council or professional board concerned in mitigation of any such penalty.

(2) (a) When in the course of any criminal proceedings it appears to the court that there is prima facie proof of conduct contemplated in section 24(1) on the part of a practitioner, the court shall direct that a copy of the record of the proceedings or of such portion thereof as is material to such conduct, be transmitted to the council.

(b) If the practitioner practises a profession in respect of which a professional board has been established, the council shall transmit a copy of the record referred to in paragraph (a) to such professional board.

28. Penalty for false evidence

Any person who gives false evidence on oath or affirmation at an inquiry held in terms of this Chapter, knowing that evidence to be false, shall be guilty of an offence and liable on conviction to the penalties which may be imposed for the offence of perjury.

29. Acts or omissions in respect of which council or professional board may take disciplinary action

(1) (a) The council shall from time to time make rules specifying the acts or omissions in respect of which the council or a professional

board, as the case may be, may take disciplinary action under this Chapter: Provided that the powers of the council or a professional board to inquire into and take any action in connection with any complaint, charge or allegation of improper or disgraceful conduct against any practitioner in terms of this Chapter, shall not be limited to the acts or omissions so specified.

- (b) Any rule contemplated in paragraph (a) referring to an allied health profession shall only be made after consultation with the professional board concerned.
- (2) No rule made under subsection (1) shall be of force and effect until approved by the Minister and published in the Gazette.
- (3) The Minister may after consultation with the executive committee of the council, subject to subsection (1)(b), and if he deems it to be in the public interest, amend or repeal any rule made under subsection (1).

30. Restriction in, or suspension from, practise of profession by practitioner

- (1) When it appears to the council that any practitioner-
 - (a) has become mentally or physically disabled to such an extent that it would be detrimental to the public interest to allow him to continue to practise any profession in respect of which he is registered or to perform any act specially pertaining to any profession in respect of which he is registered; or
 - (b) has become addicted to the use of any scheduled substance as defined in section 1(1) of the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965),

the council shall cause the matter to be investigated and may, if it deems it necessary, refer it to the relevant professional board to hold an inquiry in respect of that practitioner *mutatis mutandis* in accordance with the provisions of section 24 and the regulations made under section 38 (1) (q).

- (2) If the council or professional board in question, after holding an inquiry under subsection (1), finds that any circumstance referred to in that subsection exists in respect of the practitioner concerned, the council may by order-
 - (a) suspend that practitioner for a specified period from practising any profession in respect of which he is registered or from performing any act specially pertaining to any profession in respect of which he is registered; or

- (b) impose such conditions as it may deem fit subject to which that practitioner will be entitled to continue practising any such profession or to continue with the performance of any such act.
- (3) The council may extend for any period the operation of any order made under subsection (2) or in any other manner amend any such order or withdraw any such order.
- (4) The provisions of section 26 shall mutatis mutandis apply in respect of any practitioner who has been suspended under a provision of subsection (2) of this section.
- (5) When the council has made any order under subsection (2), the registrar shall inform the practitioner concerned thereof in writing.
- (6) Any practitioner who contravenes or fails to comply with any order made under subsection (2), shall be guilty of an offence and on conviction liable to a fine not exceeding the prescribed amount.

CHAPTER 4

OFFENCES, PENALTIES AND OTHER JUDICIAL MATTERS (ss 31-37)

31. Offences by unregistered persons, and penalties

- (1) Subject to the provisions of subsection (2) of this section and section 41, any person who is not registered as a practitioner in a particular profession and who-
 - (a) for gain practises any such profession;
 - (b) for gain performs any act specially pertaining to any such profession;
 - (c) pretends, or by any means whatsoever holds himself or herself out, to be any such practitioner, whether or not purporting to be registered; or
 - (d) uses the title of acupuncturist, ayurvedic practitioner, chiropractor, homeopath, naturopath, osteopath, phytotherapist, therapeutic aromatherapist, therapeutic massage therapist, therapeutic reflexologist or of any other profession registered in terms of this Act, or any other title or any name, description or symbol indicating, or calculated to lead persons to infer, that he or she holds the qualification of acupuncturist, ayurveda practitioner, chiropractor, homeopath, naturopath, osteopath, phytotherapist, therapeutic aromatherapist, therapeutic massage therapist, therapeutic reflexologist or of any other profession registered in terms of this Act,

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 a fine and such imprisonment.

- (2) The provisions of subsection (1) shall not prohibit-
 - (a) any person exercising a profession to which the provisions of the Pharmacy Act, 1974 (Act 53 of 1974), the Health Professions Act, 1974 (Act 56 of 1974), the Nursing Act, 1978 (Act 50 of 1978), or the Dental Technicians Act, 1979 (Act 19 of 1979), apply, from performing any act pertaining to his or her profession, as contemplated in the appropriate Act, which may lawfully be performed by him or her;
 - (b) a practitioner in any allied health profession from performing any act pertaining to an allied health profession, if such act is an act which also pertains to the profession for which the practitioner is registered in terms of this Act.
- (3) The council may, in addition to any penalty imposed in terms of this section, order that the cost of conducting the inquiry or such portion of the inquiry as the council may determine, shall be paid by the practitioner concerned.
- (4) The imposition of a penalty shall have the effect of a civil judgment of the magistrate's court of the district in which the disciplinary inquiry took place.

32. Offences by practitioners and students, and penalties

- (1) A practitioner or a student who is not registered as a medical practitioner in terms of the Health Professions Act, 1974 (Act 56 of 1974), may not-
 - (a) pretend, or by any means whatsoever hold himself or herself out, to be a medical practitioner, or make use of the title of medical practitioner or any other title or any name, description or symbol indicating, or calculated to lead persons to infer, that he or she holds the qualifications of a medical practitioner; or
 - (b) perform any act which does not fall within his or her prescribed scope of practice.
- (2) A practitioner or student who contravenes any provision of subsection (1), 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 a fine and such imprisonment.

- (3) The court convicting any practitioner or student of any offence under subsection (2), shall in addition to or in lieu of any sentence referred to in that subsection, order that the name of the practitioner or student concerned be removed from the register, and the court shall thereafter give notice to the registrar of the order.
- (4)

32A Other offences, and penalties

Any person who-

- (a) procures or attempts to procure for himself or herself or any other person registered under this Act, 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 doing so;
- (b) makes or causes to be made any unauthorised 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) 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;
- (d) forges or, knowing it to be forged, utters any document purporting to be a certificate issued under this Act;
- (e) pretends to be a person registered in terms of this Act; or
- (f) supplies or offers to supply to any person not registered under this Act, the Health Professions Act, 1974 (Act 56 of 1974), 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 Health Professions Act, 1974, or Nursing Act, 1978, prohibited from performing for gain,

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

33. Receipt for annual fees prima facie proof of registration of practitioner

A receipt purporting to be issued-

- (a) within the preceding 12 months;

- (b) by or on behalf of the council;
- (c) in respect of annual fees; and
- (d) to a person of a name substantially corresponding to that of a practitioner who is involved in any proceedings in a court of law,

shall on its mere production at those proceedings be prima facie proof that that practitioner is registered.

34. Proof of certain facts by certificate

When the question arises at any proceedings in a court of law whether or not a particular person is registered as a practitioner in respect of any profession, a document purporting to be a certificate issued by the registrar in terms of this section, in which it is certified that a named person is or is not registered as a practitioner in respect of a stated profession, shall, if the name of the first-mentioned person substantially corresponds to the name of the person so named, on its mere production be prima facie proof that the first-mentioned person is or is not registered as a practitioner in respect of the profession so stated, as the case may be.

35. Presumptions

- (1) At any criminal proceedings against any person appearing upon a charge of having performed any act which constitutes an offence under this Act if performed by a person who is not registered as a practitioner in a particular profession, the accused shall be deemed not to have been so registered at the time of the commission of the alleged offence, unless the accused proves the contrary.
- (2) At any criminal proceedings against any person appearing upon a charge of having performed any act which constitutes an offence under this Act if performed by him for gain, that person shall be deemed to have performed that act for gain if he has accepted, whether for himself or for any other person, any valuable consideration in respect of the said act.
- (3) When any person is charged with a contravention of any provision of the Health Professions Act, 1974 (Act 56 of 1974), and it is alleged that any act was at the commencement of this Act usually performed by persons who practise any profession to which this Act relates in the Republic, the onus of proving it shall be on the person alleging it.

36. Limitation of liability

The registrar or the council or a committee of the council or a professional board or any member or officer of the council or of a committee of the council or a

member of a professional board shall not be liable for any act done in good faith under this Act.

37. No remuneration recoverable by unregistered persons in respect of certain acts

No remuneration shall be recoverable in respect of any act specially pertaining to any profession if performed by a person who is not a practitioner in the profession concerned.

CHAPTER 5

GENERAL AND SUPPLEMENTARY PROVISIONS (ss 38-43)

38. Regulations

- (1) The Minister may on the recommendation of the council make regulations relating to-
 - (a) the terms of office of the office-bearers of the council;
 - (b) the conduct of the business, and the quorum and procedure, at meetings of the council and professional boards, the executive committee and other committees of the council, and the manner in which minutes of such meetings shall be kept;
 - (c) the allowance which may be paid to members of the council or of professional boards, the executive committee and other committees of the council, excluding members in the full-time service of the State, when occupied with the affairs of the council;
 - (d) the fees which may be prescribed under any provision of this Act;
 - (e) the manner in which the accounts of the council shall be kept;
 - (f) the standards to which the training of any person who in terms of section 15(1) applies for registration as a practitioner in a specified profession, shall conform;
 - (g) the issue by the registrar of registration certificates and duplicate registration certificates to practitioners and students, the form thereof and the fees payable in respect of such issue;
 - (h) amendment or revision of the registers;
 - (i) the acts specially pertaining to any specified profession;
 - (j) the conditions subject to which practitioners may practise the professions in respect of which they have been registered;

- (k) the tariff of fees which may be charged in respect of professional services rendered by a practitioner;
- (l) the remedies which a practitioner may in the practice of any profession in respect of which he is registered, prescribe or prepare for or supply to a patient of his, or may have in his possession or under his control for the practise by him of any such profession;
- (m) the exemption from the provisions of any regulation made under paragraph (l) of a practitioner who was at the commencement of the Homeopaths, Naturopaths, Osteopaths and Herbalists Amendment Act, 1980 (Act 40 of 1980), in the practice of his profession lawfully making use of any remedy not mentioned in any such regulation, with regard to that remedy;
- (n) the tariff of fees which may be charged by a practitioner in respect of remedies supplied by him in the practice of his profession;
- (o) and (p)
- (q) the institution of an inquiry in terms of Chapter 3, including-
 - (i) the manner in which a complaint, charge or allegation against a practitioner or student shall be lodged;
 - (ii) the form of a summons for the attendance at any such inquiry of the practitioner or student whose conduct is being investigated; and
 - (iii) the manner of conducting any such inquiry, the procedures to be followed thereat and any other matter connected with the institution or conducting thereof;
- (r) the payment of annual fees by practitioners or students (including the determination by any person of the amount of such fees), and exemption from such payment or reduction of such fees;
- (s) any matter which in terms of any provision of this Act is required to be or may be prescribed by regulation;
- (sA) (i) the registration of students in terms of this Act, the conditions subject to which they are registered, the maintenance and alteration of such registration and the circumstances in which the name of a student who is or was so registered may be removed from or restored to the register in question;

- (ii) the minimum requirements of the curricula and the standards of education and examinations which shall be maintained at any educational institution at which such education is provided, in order to secure recognition under this Act of the qualification concerned obtained at such educational institution;
 - (iii) the standards of general education required of such students as a condition precedent to such registration;
 - (iv) the duration of the curricula to be followed by such students at educational institutions referred to in subparagraph (ii); and
- (t) generally, all matters which he considers necessary or expedient in order to give effect to the objects of this Act.
- (2)
 - (a) The Minister may, after consultation with the executive committee of the council and if he deems it to be in the public interest, without the recommendation of the council make regulations relating to any of the matters referred to in subsection (1) or amend or repeal any regulation made under that subsection.
 - (b) Any regulation pertaining to a professional board or the profession in respect of which it is established, shall be made only after consultation with the professional board concerned.
- (3) The provisions of subsection (1)(l) and (m) shall not be applicable to a remedy which is a Scheduled substance as defined in section 1 of the Medicines and Related Substances Control Act, 1965.
- (4) Any regulation made under this section may prescribe a penalty for any contravention thereof or failure to comply therewith of a fine or imprisonment for a period not exceeding three months or both a fine and such imprisonment.
- (5) Different regulations may be made under this section in respect of different categories of practitioners or students.
- (6) The council shall not issue a receipt for annual fees payable by virtue of any regulation under subsection (1)(r), unless payment of the full amount of current annual fees and of all arrear annual fees, if any, is tendered at one and the same time.
- (7) The council may from time to time determine and publish requirements with regard to the manufacture, packing and labelling of remedies which may be prescribed, prepared or supplied by a practitioner in terms of subsection (1)(l) for the purposes of the practising of his registered profession.

38A Charges by registered persons

- (1) Every practitioner shall, unless the circumstances render it impossible for him to do so, and 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 or her claims payment from any person (in this section referred to as the patient) shall, subject to the provisions of section 59 of the Medical Schemes Act, 1998 (Act 131 of 1998), furnish the patient with a detailed account within a reasonable period.
- (3)
 - (a) The patient may, within three months after receipt of the account referred to in subsection (2), apply in writing to the council to determine the amount which in the opinion of the council should have been charged in respect of the services to which the account relates, and the council shall, as soon as possible after receipt of the application, determine the said amount and notify the practitioner and the patient of the amount so determined: Provided that before the council determines the said amount, it shall afford the practitioner concerned an opportunity to submit to it in writing his case in support of the amount charged.
 - (b)
 - (c) The Minister may, after consultation with the council, make such regulations as he may deem necessary in relation to the procedure which the council shall follow in disposing of an application under this subsection.
 - (d) The council may, after consultation with the relevant professional board, from time to time determine and publish the fees used by the council as a norm for the determination of amounts contemplated in paragraph (a).
- (4) A claim which is the subject of an application referred to in subsection (3) of which notice has been given by the council 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 refund to the patient the amount by which that payment exceeds the amount so determined.

- (5) This section shall not be deemed to divest the council of any of its powers or functions under Chapter 3 with regard to acts or omissions in respect of which it may take disciplinary steps.

38B Appeal

- (1) Any person who considers himself aggrieved-
- (a) by the refusal of the council or a committee to register him in terms of this Act or to restore his name to a specific register;
 - (b) by any penalty imposed on him or her under section 24; and
 - (c) by the removal of his name from a register under section 21(1),
- may within a period of three months after the date of such refusal, imposition of penalty or removal, appeal to an appeal committee.
- (2) Any appeal committee referred to in subsection (1), may be appointed by the Minister and shall consist of-
- (a) a person who is legally qualified and who has practised in the field of law for a period of at least 10 years who shall be the chairperson; and
 - (b) two practitioners who practise the same profession as the appellant concerned, who have no direct interest in the affairs of the appellant, who are not in the employment of the appellant and who are not members of the council or professional board concerned.
- (3) The appellant may appear in person or through a legal representative before the appeal committee, or submit written statements or arguments in support of his appeal.
- (4) The procedure in connection with the noting and prosecution of an appeal in terms of this section, shall be as prescribed.
- (5) The appeal committee hearing an appeal under this section, may confirm or set aside the refusal, penalty or removal forming the subject of the appeal, and may, if it is set aside, give such judgment as in its opinion ought to have been given by the council or committee and may direct the council to do everything necessary to give effect to the judgment of the appeal committee.

- (6) The commencement of a refusal, penalty or removal against which an appeal is lodged, shall be suspended by the lodging of an appeal in terms of subsection (1), until the appeal is disposed of by the appeal committee or withdrawn by the appellant.
- (7) Any member of the appeal committee who is not in the full-time service of the State, may be paid such remuneration and allowance as the Minister may from time to time determine with the concurrence of the Minister of State Expenditure.

38C Exemption from operation of provisions of Act

- (1) The Minister may, on the recommendation of 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.
- (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, on the recommendation of the council, at any time by notice in the Gazette amend or repeal any notice issued under subsection (1).

39. Unregistered persons not eligible for or entitled to hold certain appointments

No person, except a practitioner in the profession concerned, shall be eligible for or entitled to hold any office which involves the performance by him of any act specially pertaining to a profession which he may not perform for gain: Provided that nothing in this section contained shall be construed so as to prohibit the training of any student.

40. Saving

The provisions of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974), shall not be construed as prohibiting any practitioner from performing for gain any act usually performed at the commencement of this Act by persons who practise the profession concerned in the Republic and the performance of which by any such practitioner is not prohibited by this Act.

41. Interpretation of laws in respect of certain medicine men and herbalists

The provisions of this Act and the Health Professions Act, 1974 (Act 56 of 1974), shall not be construed as derogating from the right which a herbalist contemplated in the Code of Zulu Law may have to practise his or her profession.

41A Abolition of Chiropractors, Homeopaths and Allied Health Service Professions Interim Council, and transitional arrangements

- (1) Notwithstanding section 5(6), the Chiropractors, Homeopaths and Allied Health Service Professions Interim Council (in this section referred to as 'the Interim Council') shall cease to exist on the day immediately preceding the date of the first meeting of the council.
- (2) All rights, obligations, assets and liabilities acquired or incurred by the Interim Council 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.

42. Repeal of laws, and transitional provisions

- (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 Schedule.
- (2) Anything done under any provision of any law repealed by subsection (1) shall, unless inconsistent with the provisions of this Act, be deemed to have been done under the provisions of this Act.
- (3) Every person -
 - (a) who was registered otherwise than provisionally under the Homeopaths, Naturopaths, Osteopaths and Herbalists Act, 1974 (Act 52 of 1974); or
 - (b) whose name was entered on the list referred to in section 2 of the Chiropractors Act, 1971 (Act 76 of 1971),
 shall, if the registration contemplated in paragraph (a) or the entry contemplated in paragraph (b) was in force immediately before the commencement of this Act, be deemed to be registered under this Act as a practitioner in the profession in respect of which he was so registered or his name was so entered.
- (4) Any document purporting to be a certificate issued to a practitioner referred to in subsection (3) by virtue of a registration contemplated in paragraph (a) of the said subsection or of an entry contemplated in paragraph (b) of that subsection, and evidencing the fact of any such

registration or entry, shall for the purposes of this Act be deemed to be a registration certificate.

43. Short title

This Act shall be called the Allied Health Professions Act, 1982.

Schedule

LAWS REPEALED

Number and year of law	Title of law	Extent of repeal
Act 76 of 1971	Chiropractors Act, 1971	The whole
Act 96 of 1972	Chiropractors Amendment Act, 1972	The whole
Act 52 of 1974	Homeopaths, Naturopaths, Osteopaths and Herbalists Act, 1974	The whole
Act 20 of 1976	Chiropractors Amendment Act, 1976	The whole
Act 20 of 1976	Health Laws Amendment Act, 1977	Sections 4 up to and including 8
Act 20 of 1976	Homeopaths, Naturopaths, Osteopaths and Herbalists Amendment Act, 1980	The whole
Act 36 of 1977		