
THE HEALTH PROFESSIONS ACT, 2009

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ACT

No. 24 of 2009

Date of Assent: 28th August, 2009

An Act to continue the existence of the Medical Council of Zambia and rename it as the Health Professions Council of Zambia; provide for the registration of health practitioners and regulate their professional conduct; provide for the licensing of health facilities and the accreditation of health care services provided by health facilities; provide for the recognition and approval of training programmes for health practitioners; repeal the Medical and Allied Professions Act, 1977; and provide for matters connected with or incidental to the foregoing.

[31st August, 2009

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Health Professions Act, 2009, and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title and commencement

2. (1) In this Act, unless the context otherwise requires —
“accreditation” means the approval granted by the Council to a licensed health facility to provide one or more medical services relating to the preventive, diagnostic or treatment techniques of a particular disease or organ class;
“appointed date” means such date as the Minister may appoint under section *one*;

Interpretation

- “certificate of registration” means the certificate issued under section *eight*;
- “Chairperson” means the person appointed as Chairperson under paragraph 1 of the First Schedule;
- “Code of Ethics” means the code of professional conduct adopted and published by the Council;
- “consulting room” means a room used by a health practitioner for consulting and diagnosis;
- “Council” means the Health Professions Council of Zambia continued under section *three*;
- “diagnostic centre” means a laboratory or radiological service, or any other related service;
- “Disciplinary Committee” means the Committee constituted under section *sixty-three*;
- “former Council” means the Medical Council of Zambia established under the repealed Act;
- “health care service” means a service provided by a health practitioner or health facility for the prevention, treatment and management of illness and the preservation of mental and physical well being;
- “health facility” means any site, fixed or mobile, providing services for the prevention, diagnosis and treatment of disease or illness and includes a diagnostic centre, a hospice and a hospital;
- “health practitioner” means a person registered as a health practitioner under section *eight*;
- “health profession” means a profession whose member is required to register under section *eight* and “health professional” shall be construed accordingly;
- “hospice” means a place where a person who is terminally ill receives medical, nursing, nutritional, psychological and spiritual care;
- “hospital” means a health institution providing in-patient health care under the supervision of a medical doctor, which includes one or more of the following health services:

- (a) medicine;
- (b) surgery;
- (c) obstetrics and gynaecology; or
- (d) paediatrics;

“inspector” means a person appointed as an inspector under section *forty-seven*;

“organ class” means parts of the human body with similar or related anatomical functions and includes the endocrine system, cardiovascular system or nervous system;

“peer” means a member of the same health profession with similar specialisation, if any, and an equivalent number of years of medical practise;

“practising certificate” means a certificate issued to a health practitioner under section *sixteen*;

“professional misconduct” has the meaning assigned to it under section *sixty-one*;

“provisional certificate of registration” means the registration effected under section *nine*;

“quality assurance information” means data from a medical record showing the nature of diagnosis and treatment given to a patient, without identifying the patient;

“Register” means the Register referred to under section *twenty-seven*;

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“Registrar” means the person appointed as Registrar under section *five*;

“repealed Act” means the Medical and Allied Professions Act, 1977;

“scope of practise” means the range of knowledge expected of a particular health profession, and the preventive, diagnostic and treatment techniques which a health practitioner is allowed to perform, and the conditions under which the health practitioner may engage in those techniques;

“speciality” means a special field of work or study that a health practitioner specialises in or intends to specialise in;

“specialist” means a person registered as a specialist under section *twelve*;

“temporary certificate of registration” means the registration effected under section *ten*; and

“Vice-Chairperson” means the person appointed as Vice-Chairperson under paragraph 1 of the First Schedule.

(2) In this Act, any reference to the removal from, or the restoration to, the Register of the name of a health practitioner, shall be construed as including a reference to the removal from, or the restoration to, the Register of any other registrable particulars relating to that health practitioner.

PART II

THE HEALTH PROFESSIONS COUNCIL OF ZAMBIA

Continuation
and renaming
of Medical
Council of
Zambia Cap.
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3. (1) The Medical Council of Zambia established under the repealed Act shall continue to exist as if established under this Act and is for purposes of this Act hereby renamed the Health Professions Council of Zambia.

(2) The Council shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and shall, subject to the provisions of this Act, have power to do all such acts and things as a body corporate may, by law, do or perform.

(3) The provisions of the First Schedule apply to the Council.

Functions of
Council

4. (1) The functions of the Council are to—

- (a) register members of the health profession and regulate the professional conduct of health practitioners;
- (b) maintain appropriate practise standards among health practitioners that are consistent with the principle of self-regulation and the promotion of high standards of public health;
- (c) develop, promote, maintain and improve appropriate standards of qualification in the health profession;
- (d) promote the integrity, and enhance the status, of the health profession including the declaration of any particular health practise to be undesirable for all, or a particular category of, health practitioners;
- (e) licence public and private health facilities, accredit health services and monitor quality control and assurance of health facilities and services;
- (f) represent, coordinate and develop the health profession and promote its interest;
- (g) develop, promote and enforce internationally comparable practise standards in Zambia;
- (h) investigate allegations of professional misconduct and impose such sanctions as may be necessary;
- (i) protect and assist the public in all matters relating to the practise of the health profession;

(j) advise the Minister on matters relating to the health profession; and

(k) do all such things as are necessary or incidental to the performance of its functions under this Act.

(2) The Council may—

(a) determine and levy fees that the Council considers necessary to finance its activities under this Act;

(b) determine the fees payable for an inspection conducted for the purposes of this Act;

(c) determine fees for the accreditation of local and foreign training institutions and qualifications; and

(d) determine what portion of any fee is payable in respect of any part of a year and the date on which the fee or portion thereof is payable.

5. (1) The Council shall appoint a Registrar, who shall be the Chief Executive Officer, on such terms and conditions as the Council may determine. Registrar

(2) The Registrar shall be the Secretary to the Council and shall be responsible for the day to day administration of the affairs of the Council, under the supervision of the Council.

(3) The Council may, whenever the Registrar is absent or is for any other reason unable to discharge the functions of the Registrar's office, appoint an acting Registrar to discharge the Registrar's functions.

(4) The Council shall appoint, on such terms and conditions as the Council may determine, such other staff as may be necessary for the purposes of this Act.

PART III

REGISTRATION OF HEALTH PRACTITIONERS

6. (1) A person shall not practise as a health practitioner, unless that person is registered as a health practitioner in accordance with this Act. Prohibition of practising without registration

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

7. (1) A person who wishes to be registered as a health practitioner, shall apply to the Council for registration in the prescribed manner and form upon payment of the prescribed fee. Application for registration

(2) The Council may determine different fees for different categories or classes of health practitioners.

(3) The Council shall, within thirty days of receipt of an

application under subsection (1), grant or reject the application.

(4) The Council shall, where it rejects an application under subsection (3), inform the applicant accordingly and give the reasons therefor.

Registration
of health
practitioners

8. (1) The Council shall, where an application meets the requirements of this Act, register the applicant as a health practitioner and issue the applicant with a certificate of registration.

(2) The Council shall register a health practitioner as —

- (a) a medical doctor;
- (b) a medical licentiate;
- (c) a clinical officer;
- (d) an emergency care officer;
- (e) a dental surgeon;
- (f) a dental technologist;
- (g) a dental therapist;
- (h) an oral hygienist;
- (i) a pharmacist;
- (j) a pharmacy technologist;
- (k) a radiographer;
- (l) an X-ray assistant;
- (m) a biomedical scientific officer;
- (n) a medical laboratory technologist;
- (o) a medical laboratory technician;
- (p) a physiotherapist;
- (q) an osteopath;
- (r) an orthopaedic technologist;
- (s) an occupational therapist;
- (t) a clinical psychologist;
- (u) a medical sociologist;
- (v) a medical social worker;
- (w) a nutritionist and dietician;
- (x) an audiometrist;
- (y) an optician, optometrist and dispensing optician;
- (z) an environmental health officer;
- (aa) an environmental health technologist; or
- (ab) any other health profession as the Minister may prescribe,

on the recommendation of the Council.

(3) A holder of a provisional certificate of registration or a temporary certificate of registration may apply to the Council for a certificate of registration in the prescribed manner and form upon payment of the prescribed fee.

(4) The Council shall, within thirty days of receipt of an application under subsection (3), grant or reject the application.

(5) The Council shall, where it rejects an application under subsection (4), inform the applicant accordingly and give the reasons therefor.

(6) Subject to the provisions of this Act, the Council shall issue a certificate of registration under this section—

(a) to a holder of a provisional certificate of registration, if the holder—

- (i) has practised in a health facility approved by the Council for a period of not less than twelve months;
- (ii) is of good character and good professional standing; and
- (iii) meets such other requirements as may be prescribed; and

(b) to a holder of a temporary certificate of registration, if the holder—

- (i) has completed at least twelve months of continuous employment in a health facility that holds a class A or class B licence under section *thirty-eight*; and
- (ii) submits a letter from the person's supervisor at the health facility referred to under subparagraph (i), stating that the person has performed satisfactorily and displayed skills and knowledge equivalent to those of health practitioners trained in Zambia.

(7) The Minister may, by statutory instrument, on the recommendation of the Council, prescribe—

- (a) the qualifications for registration of a person as a health practitioner; and
- (b) the scope of practise for health practitioners registered under this Act.

Provisional
registration

9. (1) A person who holds a qualification from a training institution recognised by the Council, or a holder of a temporary certificate of registration, may apply for provisional registration in the prescribed manner and form upon payment of the prescribed fee.

(2) Subject to the provisions of this Act, the Council shall, where a person makes an application under subsection (1), issue the person with a provisional certificate of registration if—

(a) the person meets the requirements for provisional registration; and

(b) the Council determines that the training previously received by the person is equivalent to that required for provisional registration.

(3) The Council shall, where it rejects an application for provisional registration, inform the applicant accordingly and give the reasons therefor.

(4) A person holding a provisional certificate of registration may engage in employment as a health practitioner in Zambia.

(5) The Council shall not issue a person with a provisional certificate of registration for a period exceeding two years.

(6) The Minister may, by statutory instrument, on the recommendation of the Council, make regulations to regulate the scope of practise of holders of provisional certificates of registration.

Temporary
registration

10. (1) Subject to the provisions of this Act, a person who is trained outside Zambia and is not a holder of a qualification recognised by the Council, may apply for temporary registration.

(2) The Council shall, upon receipt of an application made under subsection (1), issue the applicant with a temporary certificate of registration if the applicant—

(a) possesses such knowledge and training as may be prescribed;

(b) has passed the prescribed assessment examination conducted by the relevant training institution in Zambia, recognised by the Council;

(c) provides a certificate of good standing from the professional registration body in the country where the person is currently practising;

(d) proves that the person is sufficiently knowledgeable in the English language; and

(e) shall serve in Zambia at the request of the Zambian Government or a health facility licenced under this Act.

(3) The Council shall not issue a person with a temporary certificate of registration for a period exceeding two years.

(4) The Council shall, where it rejects an application for temporary registration, inform the applicant accordingly and give the reasons therefor.

11. (1) The Council may, at the request of a health facility licensed under this Act, register a health practitioner, qualified in another country, to provide health care in Zambia for a limited period of time, at the health facility.

Registration for limited period

(2) The Council shall register a health practitioner for a limited period if the health practitioner holds equivalent registration in the health practitioner's country of origin and the health practitioner is in good standing with the relevant professional body in the health practitioner's country.

(3) The Council may specify the terms and conditions to which the registration under this section is subject, including the acts to be performed, or the nature of supervision required, by the health practitioner.

(4) The Council shall register a health practitioner under this section for a specified period of time not exceeding six months.

(5) The Council may, on the application of a health facility, renew the registration of a health practitioner under this section on such terms and conditions as the Council may determine.

12. (1) A health practitioner who wishes to be registered as a specialist shall apply to the Registrar for registration, in the prescribed manner and form upon payment of the prescribed fee.

Specialist registration

(2) The Registrar shall register a health practitioner as a specialist, if the health practitioner holds a post-graduate qualification approved by the Council.

13. A person registered under this Act, shall notify the Registrar of any change of that person's particulars relating to the registration, within seven days of the change.

Changes in detail

Cancellation
of registration

14. (1) The Council shall cancel the registration of a health practitioner where—

- (a) the Council has reasonable grounds to believe that the registration was obtained through fraud, misrepresentation or concealment of any material fact;
- (b) the health practitioner is found guilty of professional misconduct under this Act or the Code of Ethics;
- (c) the health practitioner has ceased to be employed by, or to practise at, a health facility for which the registration was obtained;
- (d) the period for which the registration of the health practitioner was issued has lapsed;
- (e) the health practitioner is convicted of an offence under any law; or
- (f) since the registration, circumstances have arisen disqualifying the health practitioner from registration.

(2) The Council shall, before cancelling the registration of a health practitioner under subsection (1), give the health practitioner an opportunity to be heard.

(3) The Council may, before cancelling the registration of a health practitioner, suspend the health practitioner for such period and on such terms and conditions as the Council may determine.

(4) Where the Council cancels the registration of a person under this section, the person's name shall be removed from the Register and shall not be restored except on such conditions as may be prescribed by the Council and upon payment of the prescribed fee.

Prohibition
of practise
without
practising
certificate

15. (1) A person shall not practise as a health practitioner, unless that person holds a practising certificate issued by the Council under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding nine hundred thousand penalty units or to imprisonment for a period not less than ten years and not exceeding twenty years, or to both.

Application
for
practising
certificate

16. (1) A health practitioner shall apply for a practising certificate in the prescribed manner and form upon payment of the prescribed fee.

(2) The Registrar shall, upon receipt of an application under subsection (1) and where the application meets such requirements as may be prescribed, issue the health practitioner with a practising certificate.

17. A holder of a practising certificate shall display the practising certificate in a conspicuous place at the place of practise.

Display of practising certificate

18. (1) A practising certificate shall be renewed annually in the prescribed manner and form upon payment of the prescribed fee.

Renewal of practising certificate

(2) A practising certificate that is not renewed in accordance with subsection (1) is void.

(3) A health practitioner who practises during any period in which the health practitioner's practising certificate is void commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a period not exceeding seven years, or to both.

19. (1) The Council shall cancel a practising certificate if the holder—

Cancellation of practising certificate

(a) is found guilty of any professional misconduct;

(b) is declared to be of unsound mind;

(c) is an undischarged bankrupt;

(d) contravenes the provisions of the Public Health Act or any other relevant law;

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(e) is a proprietor, or in charge of, a health facility which is closed or whose licence is cancelled under this Act;

(f) obtained the practising certificate through fraud, misrepresentation or concealment of a material fact; or

(g) commits an offence under this Act or contravenes the Code of Ethics.

(2) Where the registration of a health practitioner is cancelled under this Act, the practising certificate held by the health practitioner shall be void and shall be surrendered to the Council.

(3) The Council shall, before cancelling the practising certificate of a health practitioner under this section, give the health practitioner an opportunity to be heard.

- (4) The Council may, before cancelling the practising certificate of a health practitioner, suspend the health practitioner for such period and on such terms and conditions as the Council may determine.
- Regulations relating to practising certificates **20.** The Minister may, by statutory instrument, on the recommendation of the Council, make regulations to provide for—
- (a) the terms and conditions for the issuance of practising certificates;
 - (b) the type of continuing professional development and training and any other information required for the issuance of a practising certificate; and
 - (c) any other matter necessary for purposes of this Act.
- Conditions of certificate **21.** A certificate issued under this Part shall contain such terms and conditions of the certificate as the Council may determine.
- Prohibition of transfer of certificate **22.** A certificate issued under this Part shall not be transferred to a third party.
- Removal and restoration of name on Register **23.** (1) The Minister may, on the recommendation of the Council, make regulations prescribing the circumstances and manner in which a health practitioner —
- (a) may be removed from the Register; and
 - (b) who is removed from the Register, may be restored on the Register and the fee to be paid for the restoration.
- (2) Subject to subsection (1), a health practitioner who is removed from the Register ceases to be a registered health practitioner.
- (3) The Council may, where a health practitioner informs the Registrar that the health practitioner does not intend to practise for a specified period of time, maintain the name of the health practitioner on the Register, in a non-practising category, for that period of time.
- Re-registration **24.** Where the registration of a health practitioner has been cancelled or suspended, the health practitioner affected may, subject to such terms and conditions as the Council may determine, apply for re-registration.

25. (1) A person whose certificate of registration is destroyed or lost may apply to the Registrar for a duplicate certificate in the prescribed manner and form upon payment of the prescribed fee.

Duplicate
certificate of
registration

(2) The Registrar may, upon receipt of an application under subsection (1), issue a duplicate certificate of registration to the applicant.

26. (1) A person may apply to the Registrar for a certificate of status, containing particulars relating to a health practitioner's registration, in the prescribed manner and form and upon payment of the prescribed fee.

Certificate of
status

(2) Upon receipt of an application under subsection (1), the Registrar may issue a certificate of status to the applicant in the prescribed form.

27. (1) The Registrar shall keep and maintain a Register of all health practitioners registered under this Act in which the Registrar shall enter the details and particulars relating to-

Register

(a) fully registered health practitioners;

(b) the holders of—

(i) practising certificates;

(ii) provisional certificates of registration; and

(iii) temporary certificates of registration;

(c) persons registered for a limited period;

(d) person registered as specialists;

(e) the applications rejected and the reasons therefor; and

(f) any other information as the Council may determine.

(2) The Register shall be kept in the custody of the Registrar at the offices of the Council, and shall be open for inspection by members of the public during normal office hours upon payment of such fee as the Council may determine.

(3) The Registrar may, upon application by any person, issue to the person a certified extract from the Register, or a copy of a certificate of registration, upon payment of such fee as the Council may determine.

28. (1) The Registrar shall, on the direction of the Council, cause copies of the Register and any alterations thereof, or additions thereto, to be printed and published in such manner and form as the Council may direct.

Publication
of copies of
Register

(2) Subject to this Act, a copy of the last published and printed Register shall be evidence admissible in all legal proceedings of what is contained in that Register and the absence of the name of a health practitioner from that copy, shall be *prima facie* evidence that the health practitioner is not registered.

Appeals

29. (1) A person aggrieved with a decision of the Council may, within thirty days of receiving the decision, appeal to the Minister.

(2) A person aggrieved with a decision of the Minister may, within thirty days of receiving the decision, appeal to the High Court.

Holding out as
health
practitioner

30. (1) A person shall not, unless the person is registered as a health practitioner under this Act—

(a) practise as, be employed as, offer health care services as, be engaged as an agent of, or hold out to be, a health practitioner;

(b) adopt, use or exhibit the term “health practitioner” or any other term of like description; or

(c) do anything likely to lead persons to infer that the person is a registered health practitioner.

(2) A person or health facility shall not employ a person who is not registered under this Act as a health practitioner.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a period not exceeding seven years, or to both.

(4) A health practitioner who permits that health practitioner’s name to be used by a person who is not a registered health practitioner commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a period not exceeding seven years, or to both.

(5) Nothing in this section shall prevent a trainee, undergoing training for the purpose of qualification for registration as a health practitioner, from employment or performance of health care services under the direct supervision of a registered health practitioner in accordance with such guidelines for training programmes as the Council may determine.

31. (1) A person shall not —

(a) make or cause to be made an unauthorised entry, alteration or erasure in the Register or a certified copy of an entry in the Register or a certificate of registration or other certificate issued under this Act;

(b) impersonate or use the title of a registered health practitioner while not registered as such under this Act;

(c) procure, or attempt to procure, registration under this Act, by fraud, false representation or the concealment of a material fact;

(d) forge a certificate of registration or other certificate issued under this Act;

or

(e) undertake to provide health care services in excess of the scope of practise permitted for the registered health profession.

(2) A person who contravenes subsection (1), commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a period not exceeding seven years, or to both.

Offences
regarding
registered
health
practitioners

PART IV

TRAINING OF HEALTH PROFESSIONALS

32. (1) A training institution shall not provide, or hold out as providing, training to prepare students for a health profession, unless the training programme is approved by the Council.

(2) A training institution that contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units, and to a fine of forty thousand penalty units for each day during which the offence continues.

33. (1) A training institution that intends to offer training in a health profession shall apply to the Council for approval of the training programme in the prescribed manner and form upon payment of the prescribed fee.

(2) The Council may, after review of a proposed training programme, approve the training programme if the training programme meets the requirements of this Act and if the training programme shall adequately prepare students for service in a particular health profession.

Prohibition
of provision
of
unauthorised
training
programme

Application
for approval
of training
programme

(3) The Council may accept the successful completion of a training programme approved under subsection (2), as meeting some or all of the requirements for provisional registration in a particular health profession.

(4) The Council shall not, where a training institution uses a training programme in the training of a health profession which is not approved under this section, accept the training as meeting the training requirements for registration in that health profession.

Review of
approved
training
programme

34. (1) The Council shall, at least every five years from the date of the approval of a training programme under section *thirty-three*, review the approved training programme, including the performance of the graduates of the programme.

(2) The Council shall withdraw the approval of a training programme, where it determines that —

(a) the training programme no longer meets the requirements of this Act; or

(b) the graduates of the training programme consistently fail to meet the standards required by their health profession.

Continuing
professional
development
and training

35. (1) The Minister may, by statutory instrument, on the recommendation of the Council, make regulations to provide for continuing professional development and training to be undertaken by health practitioners.

(2) Notwithstanding the generality of subsection (1), the regulations may provide for—

(a) the nature and extent of continuing professional development and training to be undertaken by health practitioners;

(b) the criteria for recognition by the Council of continuing professional development, training programmes and training institutions for purposes of this Act;

(c) the minimum professional and technical training to be provided by a training institution to a health practitioner who is to be registered in a health profession; and

(d) the requisite infrastructure of training institutions, appropriate educational and training curricula, qualifications of faculty personnel, suitable training equipment and staffing levels of medical and other personnel.

PART V

LICENSING OF HEALTH FACILITIES

36 (1) A person shall not operate a health facility without a licence issued in accordance with the provisions of this Part.

Prohibition of operating health facility without licence

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

37. A person who intends to operate a health facility shall apply to the Council for a licence in the prescribed manner and form upon payment of the prescribed fee.

Application for licence to operate health facility
Issue of licence

38. (1) The Council shall, where a health facility meets the requirements of this Act, issue the applicant with a licence according to the following classes:

(a) class A, for a health facility to provide in-patient care for acutely ill persons requiring regular monitoring and intervention by a medical doctor, including a hospital and a hospice to provide palliative care for the terminally ill:

Provided that the health care in the facility shall be supervised by a medical doctor;

(b) class B, for a health facility to provide diagnostic service, prevention and treatment of disease and illness on an out-patient basis and to incorporate the services of multiple registered health practitioners and the use of equipment for diagnosis and treatment, including medical laboratories;

(c) class C, for a health facility to provide diagnostic service, prevention and treatment of diseases and to perform physical examinations using simple equipment and taking specimens for laboratory analysis, but not including a facility to employ multiple registered health practitioners and to use extensive diagnostic equipment or invasive procedures;

(d) class D, for a health facility to provide diagnostic service in any place other than a hospital;

(e) class E, for a health facility to provide physiotherapy, occupational and hydrotherapy services in any place other than a hospital; or

(f) any other class as the Minister may prescribe, by statutory instrument, on the recommendation of the Council.

(2) The Council may prescribe different fees for different classes of licences.

(3) A licence issued under subsection (1), shall be renewed annually in the prescribed manner and form and upon payment of the prescribed fee.

(4) A licence shall be issued on such terms and conditions as the Minister may, by statutory instrument, on the recommendation of the Council, prescribe.

(5) The Minister may, by statutory instrument, on the recommendation of the Council, prescribe the requirements for each class of licence and may designate multiple levels with different requirements within each class.

Refusal to
issue
licence

39. (1) The Council shall reject an application for a licence to operate a health facility if —

(a) the proprietor or person in charge of the health facility is in violation of a provision of this Act;

(b) the health practitioner in charge of the facility is not registered and is not in possession of a valid practising certificate;

(c) the health facility does not meet the physical, staffing, equipment or organisational requirements for the licence; or

(d) the health practitioner to be in charge of the health facility has not held a certificate of registration for a period of at least three years before the date of the application, unless the Council determines that the health practitioner is properly registered and has the relevant experience in another country equivalent to that acquired after three or more years of full registration in Zambia.

(2) The Council shall, where it rejects an application under subsection (1), inform the applicant accordingly and give the reasons therefor.

Display of
licence

40. A licensed health facility shall display a copy of the licence in a prominent place at the health facility.

Variation of
licence

41. A holder of a licence may, at any time during the validity of the licence, apply to the Council for variation of the terms and conditions of the licence.

- 42.** Where a holder of a licence decides not to continue operating the health facility to which the licence relates, the holder shall surrender the licence to the Council. Surrender of licence
- 43.** A licence shall not be transferred to a third party without the prior approval of the Council. Transfer of licence
- 44.** (1) The Council may amend a licence where— Amendment of licence
- (a) some other person has succeeded to the interest in the health facility belonging to the holder of the licence, by substituting the name of the holder with the name of the successor; or
- (b) the name of the health facility has changed, by substituting the name so changed.
- 45.** (1) The Council shall renew a licence issued under this Part, if — Renewal of licence
- (a) the health facility remains in full compliance with the rules for health facilities pertaining to the health facility's licence class under section *thirty-eight*;
- (b) the facility provides information as the Council may require as a condition of licence renewal; and
- (c) the proprietor or person in charge of the health facility pays an annual fee as may be prescribed by the Council.
- 46.** (1) Subject to the other provisions of this Act, the Council may suspend or cancel a licence if the holder— Suspension or cancellation of licence
- (a) obtained the licence by fraud or deliberate or negligent submission of false information or statements; or
- (b) contravenes this Act or any terms and conditions of the licence.
- (2) The Council shall, before suspending or cancelling a licence in accordance with subsection (1), give written notice to the holder thereof of its intention to suspend or cancel the licence and shall give the reasons for the intended suspension or cancellation and require the holder to show cause, within a period of not more than thirty days, why the licence should not be suspended or cancelled.
- (3) The Council shall not suspended or cancel a licence under this section if the holder takes remedial measures to the satisfaction of the Council within the period of thirty days referred to in subsection (2).
- (4) The Council may, if a holder who is notified under subsection (2) fails to show cause to the satisfaction of the Council, or does not take any remedial measures to the satisfaction of the Council within the time specified in that subsection, suspend or cancel the licence, and issue the holder with an order to that effect.

(5) The Council shall, where it cancels the licence under subsection (4), publish the order of cancellation in a newspaper of daily circulation in Zambia.

(6) The health facility shall, where the proprietor or person in charge of a health facility receives a copy of the order under subsection (4), stop taking new patients and shall close the health facility within fourteen days of receiving the order.

(7) Notwithstanding this section, the Council may, where the Council finds that the continued operation of a health facility presents a clear and present danger of imminent harm to patients, order the closure of the health facility.

Inspection of
health facility

47. (1) The Council shall appoint inspectors to ensure compliance with this Act.

(2) The Registrar shall issue an identity card to an inspector, which shall be produced by the inspector when a person requires it to be produced.

(3) A health facility shall be inspected prior to the issuance of a licence and at least every twenty-four months thereafter.

Entry and
inspection

48. (1) An inspector may, by authorisation made under the hand of the Registrar, at all reasonable times, enter and inspect premises which are being used, or which the inspector has reasonable cause to believe are being used as a health facility.

(2) An inspector may inspect the practising certificate of a health practitioner working in a health facility and other records required to be kept under this Act.

(3) An inspector may inspect a health facility and equipment in the health facility for compliance with licence regulations made under this Act.

(4) Notwithstanding subsection (1), an inspector shall not inspect a medical record of a patient.

(5) A person who—

(a) delays or obstructs an inspector in the performance of the inspector's functions;

(b) refuses to give an inspector such reasonable assistance as the inspector may require for the purpose of exercising the inspectors powers; or

(c) gives an inspector false or misleading information in answer to an inquiry made by the inspector;

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

49. An inspector shall furnish the Council with a written report and any other information relating to an inspection, as the Council may direct. Report of inspection

50. (1) The Council may order the closure of a health facility where— Closure of health facility

(a) the health facility is violating licence requirements in a manner that presents danger of imminent harm to patients;

(b) the health facility is not licensed under this Act; or

(c) the health facility contravenes the provisions of this Act or any other law.

(2) The Council shall, where the Council receives an inspection report indicating that a health facility is not in compliance with the requirements of the health facility's licence, or is offering services in excess of those permitted to a licence of the facility's class, give the health facility written notice of the violation.

(3) The health facility shall, where it receives a notice under subsection (2), within fourteen days of receipt of the notice, provide the Registrar with a written plan of correction of the violation, indicating a schedule of dates by which corrective actions shall be taken.

(4) The health facility shall, where the plan of correction submitted under subsection (3) is accepted by the Registrar, meet the schedule contained in the plan.

(5) The Council shall, where the plan of correction is rejected by the Registrar, revoke the health facility's licence and order the closure of the health facility.

51. (1) Subject to subsection (2), a health facility shall not offer or give consultation, treatment or diagnosis, except by, or under, the supervision of a medical doctor or authority of a registered health practitioner. Prohibition of treatment or diagnosis without medical doctor or registered health practitioner

(2) Subsection (1) shall not apply to the administration of first aid or to the continuation of treatment previously prescribed by a medical doctor or a registered health practitioner for a prescribed period.

(3) The Minister may, by statutory instrument, on the recommendation of the Council, prescribe the qualifications and professional experience required of a registered health practitioner who is to supervise the operations of a health facility of a particular licence class.

Publication
of licensed
health
facilities

52. The Council shall publish annually a list of all licensed health facilities showing their location and licence class, in a daily newspaper of general circulation in Zambia.

Offences
relating to
health
facilities

53. (1) A person who—

- (a) contravenes any practise standards, procedures or guidelines for health facilities issued by the Council;
- (b) being a holder of a licence under this Part, breaches any terms and conditions of the licence;
- (c) performs an act or omits to act, thereby endangering public health or the lives of persons receiving health care services at a health facility;
- (d) without a licence, operates a health facility, practises as, or holds out a health facility as, licenced under this Act;
- (e) without a licence, uses the terms “clinic”, “surgery”, “health centre”, “consulting room”, “nursing home”, “hospice”, “hospital” or any other similar term;
- (f) engages or employs persons who are not qualified or registered under this Act at a licenced health facility; or
- (g) contravenes any provisions of this Act or any other law;

commits an offence and is liable, upon conviction, to a fine not exceeding nine hundred thousand penalty units or to imprisonment for a period not less than ten years and not exceeding twenty years, or to both, and to fifty thousand penalty units for each day during which the offence continues.

PART VI

ACCREDITATION OF HEALTH CARE SERVICES

Application
for
accreditation
of health
care service

54. (1) A health facility shall apply for accreditation of a health care service to the Council in the prescribed manner and form upon payment of the prescribed fee.

(2) The Council shall, upon receipt of an application under subsection (1), direct an inspector to inspect the health facility in order to determine whether the health facility meets the requirements for accreditation as may be prescribed.

55. (1) The Council shall, where a health facility meets the requirements for accreditation, grant full accreditation to the health facility for a period of one year. Grant of accreditation

(2) The Council may, grant provisional accreditation for a period not exceeding one year, where it determines that a health facility demonstrates reasonable progress towards full accreditation, but is not in conformity with accreditation requirements, and the health facility is able to safely provide the accredited service in its current condition.

(3) The Council shall, where the Council grants a health facility full or provisional accreditation, endorse on the licence of the health facility the type of accreditation granted.

(4) The Minister may, on the recommendation of the Council, by statutory instrument, make regulations for the accreditation of health care services which may include requirements for staffing, facilities, equipment, procedures, record keeping, data collection, staff training, and compliance with certain protocols or treatment guidelines.

56. (1) The Council shall not grant accreditation to a health facility, if the granting of the accreditation shall result in waste or inefficiency in the health care system. Refusal to grant accreditation

(2) The Council shall, where the Council rejects an application for accreditation, inform the applicant, in writing, indicating the reasons for the rejection and shall offer the applicant an opportunity to be heard.

(3) A person aggrieved with the decision of the Council under subsection (2) may, within thirty days of receiving the decision, appeal to the Minister.

(4) A person aggrieved with the decision of the Minister under subsection (3) may, within thirty days of receiving the decision, appeal to the High

57. (1) An accreditation granted under section *fifty-five* may be renewed annually. Renewal of accreditation

(2) The Council may require reporting of data, including quality assurance information, as a condition for the renewal of accreditation.

(3) The Council may cause inspections to be carried out to confirm continuing compliance with accreditation requirements to be conducted at the same time as health facility licence inspections, or more frequently if required.

Revocation of accreditation

58. (1) The Council shall, where a health facility is in violation of accreditation requirements, inform the health facility, in writing, of the Council's intention to revoke the accreditation.

(2) Where the Council intends to revoke an accreditation, the procedures for notification and correction of violations set out under section *fifty* shall apply.

Provision of health care service without accreditation

59. (1) A health facility shall, where a health care service is subject to accreditation, not provide that health care service or hold out as providing that health care service without obtaining accreditation from the Council.

(2) A health facility that contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units.

PART VII

DISCIPLINARY COMMITTEE

Code of Ethics

60. The Council shall adopt and publish a Code of Ethics for health practitioners which shall bind all health professions regulated under this Act.

Professional misconduct

61. A health practitioner commits professional misconduct if the health practitioner —

- (a) contravenes the provisions of this Act;
- (b) unlawfully discloses or uses to the health practitioner's advantage any information acquired in the health practitioner's practise;
- (c) engages in conduct that is dishonest, fraudulent or deceitful;
- (d) commits an offence under any other law;
- (e) engages in any conduct that is prejudicial to the health profession or is likely to bring it into disrepute; or
- (f) breaches the Code of Ethics or encourages another health practitioner to breach or disregard the principles of the Code of Ethics.

Initiation of disciplinary action

62. (1) A person may lodge a complaint with the Disciplinary Committee against a health practitioner where the person alleges that the health practitioner has contravened the Code of Ethics or any provision of this Act.

(2) The Council may initiate disciplinary action under this

section where the Council has reasonable grounds to believe that a health practitioner has contravened the Code of Ethics or any provision of this Act.

(3) A complaint or allegation shall be made to the Registrar in the prescribed manner and form.

63. (1) The Council shall establish a Disciplinary Committee which shall comprise the following members: Disciplinary Committee

- (a) a Chairperson;
- (b) a Vice-Chairperson;
- (c) the Chairperson of the Council;
- (d) a peer of the health practitioner against whom a complaint of professional misconduct is made; and
- (e) a lay member of the Council.

(2) The Chairperson and Vice-Chairperson shall be legal practitioners qualified to hold, or who have held, high judicial office.

(3) A person shall not be appointed as a member of the Disciplinary Committee if the person—

- (a) has committed or been convicted of any professional misconduct;
- (b) is in lawful custody or the person's freedom of movement is restricted under any law in force within or outside Zambia; or
- (c) has been convicted of an offence under any law.

(4) A member of the Disciplinary Committee shall hold office for three years and may be appointed for a further term of three years.

(5) A member of the Disciplinary Committee shall not serve for more than two terms.

(6) The Chairperson, or in the absence of the Chairperson, the Vice-Chairperson, shall preside at every meeting and every sitting of the Disciplinary Committee.

64. (1) The functions of the Disciplinary Committee are to hear and determine— Functions of Disciplinary Committee

- (a) any disciplinary action initiated by the Council against a health practitioner who has contravened any provision of the Code of Ethics or any provision of this Act; or

(b) any complaint or allegation made by any person against a health practitioner.

(2) The Disciplinary Committee may publicise, as the Disciplinary Committee may consider appropriate, the facts relating to any health practitioner who is found guilty of, and punished for, professional misconduct.

Proceedings
of
Disciplinary
Committee

65. (1) Three members of the Disciplinary Committee shall form a quorum.

(2) Any question at a sitting or meeting of the Disciplinary Committee shall be decided by a majority of the votes of the members of the Disciplinary Committee at the sitting or meeting and in the event of an equality of votes, the person presiding at the sitting or meeting shall have a casting vote in addition to that person's deliberative vote.

(3) All proceedings of the Disciplinary Committee shall be in camera.

(4) The Disciplinary Committee shall cause to be kept a record of its proceedings.

(5) A party to a hearing of the Disciplinary Committee may be represented by a legal practitioner or, if the party so elects, by any other person or in person.

(6) A decision of the Disciplinary Committee shall be in the form of a reasoned judgment and a copy thereof shall be supplied to each party to the proceedings and to every person affected by the decision.

(7) If a person is present at a meeting of the Disciplinary Committee at which any matter is the subject of consideration, and in which matter the person or that person's spouse is directly or indirectly interested in a private capacity, that person shall, as soon as is practicable after the commencement of the meeting, disclose the interest and shall not, unless the Disciplinary Committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.

(8) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

Powers of
Disciplinary
Committee

66. (1) The Disciplinary Committee may, for the purposes of any hearing, hear and receive evidence and may, under the hand of the Chairperson of the Disciplinary Committee or the Registrar, summon witnesses and require the production of any book, record, document, electronic record or anything required for the purposes of the proceeding and may through the Chairperson or Vice Chairperson of the Disciplinary Committee administer an oath to any witness.

(2) A person summoned to attend before the Disciplinary Committee who, without sufficient cause—

- (a) refuses or fails to attend at the time and place specified in the summons or, having attended, leaves without the permission of the Disciplinary Committee;
- (b) having attended, refuses to be sworn Cap. 87 or to affirm;
- (c) refuses, without lawful excuse, to answer fully and satisfactorily to the best of that person's knowledge and belief, any question lawfully put to that person; or
- (d) refuses to produce any book, record, document or thing which that person has been required by summons to produce;

commits an offence and is liable, upon conviction, for every such refusal or failure, to a fine not exceeding twenty thousand penalty units.

(3) A person shall not be compelled to answer any question or produce any book, record or document which that person would not be compelled to answer or produce on the trial of an action in the High Court.

(4) A hearing before the Disciplinary Committee shall, for all purposes, and in particular for the purposes of Chapter XI of the Penal Code, be deemed to be a judicial proceeding.

Cap. 87

(5) Where the Disciplinary Committee, after due inquiry, finds a health practitioner guilty of professional misconduct, it may impose one or more of the following penalties:

- (a) order the cancellation of the health practitioner's practising certificate or certificate of registration;
- (b) censure the health practitioner;
- (c) caution the health practitioner;
- (d) impose a fine, not exceeding three hundred thousand penalty units to be paid to the Council;
- (e) order the health practitioner to pay to the Council or to any other party to the hearing any costs of, or incidental to, the proceedings;
- (f) order the health practitioner to pay any party to the hearing or other person, as restitution, the amount of loss caused by that person's negligence; or

(g) impose any reasonable conditions for the suspension, for a period not exceeding one year of, the health practitioner's certificate of registration or practising certificate.

(6) In any hearing before the Disciplinary Committee, any finding of fact which is shown to have been made by any court in Zambia shall be conclusive evidence of the fact so found.

(7) The Disciplinary Committee shall, where it has reasonable cause to believe that a health practitioner is, or has become mentally unsound to the extent that the continued practising by the health practitioner is prejudicial to public health, refer the matter for determination by a medical doctor.

(8) The Disciplinary Committee shall, where a medical doctor determines that a health practitioner is of unsound mind, suspend the practising certificate of the health practitioner.

(9) The Disciplinary Committee shall, where after due inquiry, it finds a health practitioner not guilty of professional misconduct, record a finding that the health practitioner is not guilty of such conduct in respect of matters of which the charge relates.

(10) The Disciplinary Committee may, for the purpose of any proceedings, use such assessors or experts as the Disciplinary Committee may determine.

Reports by
Disciplinary
Committee

67. The Disciplinary Committee shall, as soon as practicable after the completion of each hearing, submit to the Council a report of the proceedings together with a copy of the record.

Appeals to
High
Court

68. (1) A person aggrieved with a decision of the Disciplinary Committee may, within thirty days of receiving the decision, appeal to the High Court.

(2) The Council shall be the respondent on any appeal under this section.

(3) A decision of the Disciplinary Committee under this Part shall not take effect until the expiration of the time for lodging an appeal against the decision or, if an appeal is lodged, until the time the appeal is disposed of, withdrawn or struck out for want of prosecution, as the case may be.

(4) The High Court may, on any appeal under this section—

(a) confirm, vary or set aside any finding made, penalty imposed or direction given by the Disciplinary Committee;

(b) remit the matter to the Disciplinary Committee for further consideration in accordance with such directions as the High Court may give; or

(c) make such other order as to costs or otherwise as it considers appropriate.

(5) Proceedings of the Disciplinary Committee shall not be set aside by reason only of some irregularity in those proceedings if such irregularity did not occasion a substantial miscarriage of justice.

69. The Chief Justice may, by statutory instrument, make rules regulating appeals to the High Court under this Part.

Rules by
Chief
Justice

70. (1) The Chief Justice may, by statutory instrument, on the recommendation of the Council, make rules relating to—

Rules
relating
to
disciplinary
proceedings

(a) the manner and form for lodging of complaints under this Part;

(b) the mode of summoning persons before the Disciplinary Committee;

(c) the form and manner of service of a summons requiring the attendance of a witness before the Disciplinary Committee and the production of any book, record, document or thing;

(d) the procedure to be followed and rules of evidence to be observed in proceedings before the Disciplinary Committee; and

(e) the functions of the assessors to the Disciplinary Committee.

(2) Rules made under this section may, in particular, provide—

(a) that before any matters are referred to the Disciplinary Committee they shall, in such manner as may be provided by the rules, have been brought before and investigated by the Council in this respect;

(b) for securing notices for the proceedings and specifying the time and manner of the proceedings; and

(c) for securing that any party to the proceedings shall, if that person requires, be entitled to be heard by the Disciplinary Committee.

PART VIII

GENERAL PROVISIONS

- Jurisdiction over acts committed outside Zambia
71. (1) A court of competent jurisdiction shall have jurisdiction over health practitioners for any act committed outside Zambia which, if it had been committed in Zambia, would have been an offence or professional misconduct under this Act.
- (2) Any proceedings against a health practitioner under this section which would be a bar to subsequent proceedings against the health practitioner, for the same offence, if the offence had been committed in Zambia, shall be a bar to further proceedings against the health practitioner under any written law relating to the extradition of persons, in respect of the same offence outside Zambia.
- Cap. 98
- (3) The Mutual Legal Assistance in Criminal Matters Act shall apply to proceedings under this Act.
- Presumption of non-registration
72. In any criminal proceedings against a health practitioner upon a charge of having performed an act which constitutes an offence if performed by an unregistered health practitioner, the health practitioner charged shall be presumed to be unregistered unless that health practitioner proves the contrary.
- No execution on property of Council
73. Notwithstanding anything contrary contained in any written law, where a judgment or order has been obtained against the Council, no execution or attachment, or process of any nature, shall be issued against the Council or against the property of the Council, but the Registrar shall cause to be paid out of the revenue of the Council such amounts as may, by the judgment or order, be awarded against the Council to the person entitled to the amounts.
- General penalty
74. A person who contravenes a provision of this Act for which a specific penalty is not provided for under this Act, commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.
- Offences by body corporate or unincorporate body
75. If a body corporate or un-incorporate body is convicted of an offence under this Act, every person who-
- (a) is a director of, or is otherwise concerned with the management of, the body corporate or un-incorporate body; and
- (b) knowingly authorised or permitted the act or omission constituting the offence;

shall be deemed to have committed the same offence and may be proceeded against and punished accordingly.

76. (1) In the exercise of its functions under this Act, the Council may make such guidelines as are necessary for the better carrying out of the provisions of this Act.

Authority to
issue
guidelines

(2) The Council shall publish the guidelines issued under this Act in a daily newspaper of general circulation in Zambia, and the guidelines shall not take effect until they are so published.

(3) The guidelines issued by the Council under this Act shall bind all persons regulated under this Act.

77. (1) The Minister may, on the recommendation of the Council, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

Regulations

(2) Without prejudice to the generality of subsection (1), regulations under that subsection may make provision for—

- (a) the forms, fees payable and the procedure for applications to be made under this Act;
- (b) the information and documents to be submitted in support of applications to be made under this Act;
- (c) the form and conditions of the Register, and the particulars to be entered on the Register;
- (d) the form of the certificate of registration and the conditions under which the certificate of registration is issued;
- (e) the form of the practising certificate and the conditions under which the practising certificate is issued;
- (f) the qualifications for registration of health practitioners;
- (g) the scope of practise for registered health practitioners;
- (h) the issuance of duplicates and certified copies of certificates of registration, certified copies of entries on the Register, certificates by the Registrar, and the fees payable to the Council therefor;
- (i) the circumstances and manner in which a health practitioner may be removed from the Register or restored on the Register;
- (j) the type of continuing professional development and training required as a pre-requisite for the issuance of a practising certificate;

- (k) the requirements and conditions for the granting of accreditation and the manner in which the Council shall administer and monitor compliance with accreditation requirements and conditions;
- (l) the licensing procedures and the forms for any licence needed to be obtained under this Act;
- (m) the requirements and conditions relating to the licence classes for health facilities; and
- (n) generally the carrying into effect of the purposes of this Act.

Repeal of
Act No. 22
of 1977

78. (1) The Medical and Allied Professions Act, 1977, is hereby repealed.

(2) Notwithstanding subsection (1), the provisions of the Second Schedule shall apply in respect of the matters specified therein.

(3) Notwithstanding subsection (1), a person who immediately before the appointed date, held office as a member of the former Council shall hold office as a member of the Council for a period of three months after which the Minister shall appoint, the members of the Council in accordance with the provisions of this Act.

Cap. 297

(4) After the appointed date, a person registered as a health practitioner under the repealed Act shall continue to practise as a health practitioner for a period of three months, after which the person shall apply for registration in accordance with the provisions of this Act.

(5) After the appointed date, a health facility registered by the former Council shall continue to operate for a period of one year, after which the facility shall apply for a new licence under this Act.

FIRST SCHEDULE
(Section 4 (3))

PART I

ADMINISTRATION OF COUNCIL

1. (1) The Council shall consist of the following part-time members appointed by the Minister: Composition
of Council

- (a) the President of the General Nursing Council of Zambia;
- (b) the Permanent Secretary of the Ministry responsible for health;
- (c) the Dean of the School of Medicine;
- (d) the Director of the University Teaching Hospital;
- (e) a representative of the Defence Forces Medical Services;
- (f) a representative from the Ministry responsible for science and technology;
- (g) two members of the public who have distinguished themselves in the service of the public;
- (h) a representative of the Pharmaceutical Regulatory Authority;
- (i) a representative of the Attorney General;
- (j) a representative of the Zambia Medical Association;
- (k) a representative of the Faculty of General Practitioners;
- (l) a representative of the Churches Health Association of Zambia;
- (m) a dental surgeon from the Dental Association of Zambia;
- (n) a representative of the Pharmaceutical Society of Zambia; and
- (o) a representative of any four other health professions nominated by the chairperson of the health professional body of that health profession.

(2) The Minister shall, on receiving the names of the proposed representatives under subsection (2), consider the nominations and may reject any nomination:

Provided that where the Minister rejects any proposed representative, the Minister shall direct the organisation or institution which proposed the representative to avail the Minister with the name of another representative.

(3) The Chairperson and the Vice-Chairperson of the Council shall be appointed by the Minister from amongst the members of the Council.

(4) A person shall not be eligible for appointment as a member of the Council if—

(a) that person is under any written law, adjudged or otherwise declared to be of unsound mind; or

(b) that person is adjudged or declared bankrupt under any written law in Zambia; or

(c) that person has been convicted of an offence under this Act, the Pharmaceutical Act, 2004, or any other law relating to the practise of medicine.

No. 14 of
2004

Seal of
Council

2. (1) The Seal of the Council shall be such device as may be determined by the Council and shall be kept by the Registrar.

(2) The Chairperson or the Vice Chairperson, the Registrar or any other person authorised by a resolution of the Council to so act, shall authenticate the affixing of the seal.

(3) Where a contract or instrument is not required to be under seal, the Registrar or a person authorised by the Council in that behalf, may execute the contract or instrument on behalf of the Council without seal.

(4) A document purporting to be a document under the seal of the Council or issued on behalf of the Council, shall be received in evidence and shall be executed or issued, as the case may be, without further proof, unless the contrary is proved.

Tenure of
office and
vacancy of
member

3. (1) A member of the Council shall, subject to the other provisions of this Schedule, hold office for a term of three years and may be re-appointed for a further term of three years.

(2) Upon the expiration of the term for which a member is appointed, the member shall continue to hold office until another member is appointed, but in no case shall any extension of the period exceed three months.

- (3) The office of a member shall be vacated—
- (a) upon the member's death;
 - (b) if the member is adjudged bankrupt;
 - (c) if the member is absent from three consecutive meetings of the Council, of which the member has had notice, without the prior approval of the Council;
 - (d) upon the expiry of one month's notice of the member's intention to resign, given by the member in writing to the Minister;
 - (e) if the member becomes mentally or physically incapable of performing duties as a member;
 - (f) if the Minister is satisfied that the continuation of that health practitioner as a member will be prejudicial to the interest of the health profession;
 - (g) in the case of members of the Council registered under this Act, if the member's registration is cancelled;
 - (h) if the member is removed by the Minister; or
 - (i) if the member is convicted of an offence under this Act or any other law.

(4) Where there is a vacancy in the membership of the Council before the expiry of the term of office, the Minister shall appoint another person to replace the member who vacates office but that person shall only hold office for the remainder of the term.

4. (1) Subject to the other provisions of this Act, the Council may regulate its own procedure.

Proceedings
of Council

(2) The Council shall meet for the transaction of business at least twice in every three months at such places and times as the Council may determine.

(3) Upon giving notice of not less than fourteen days, a meeting of the Council may be called by the Chairperson and shall be called if not less than one third of the members so request in writing:

Provided that if the urgency of a particular matter does not permit the giving of notice, a special meeting may be called upon giving a shorter notice.

(4) Twelve members of the Council shall constitute a quorum.

(5) There shall preside at a meeting of the Council—

- (a) the Chairperson;

(b) in the absence of the Chairperson, the Vice- Chairperson;
or

(c) in the absence of the Chairperson and the Vice-
Chairperson, a member of the Council as the members
present may elect from amongst themselves for the
purpose of that meeting.

(6) A decision of the Council on any question shall be by a
majority of the members present and voting at the meeting and, in
the event of an equality of votes, the person presiding at the meeting
shall have, in addition to a deliberative vote, a casting vote.

(7) Where a member is for any reason unable to attend the
meeting of the Council, the member may, in writing, nominate
another person from the same organisation to attend a meeting in
that member's stead and such person shall be deemed to be a
member for the purpose of that meeting.

(8) The Council may invite any person whose presence, in its
opinion, is desirable to attend and participate in the deliberations of
a meeting of the Council, but that person shall have no vote.

(9) The validity of any proceedings, act or decision of the
Council shall not be affected by any vacancy in the membership of
the Council or any defect in the appointment of any member or by
reason that any person not entitled to do so, took part in the
proceedings.

(10) The Council shall cause minutes to be kept of the
proceedings of every meeting of the Council and committee
established by the Council.

Committees

5. (1) The Council may, for the purpose of performing its
functions under this Act, constitute a committee and delegate to
the committee such functions of the Council as it considers necessary.

(2) The Council may appoint as members of a committee
constituted under sub-paragraph (1), persons who are or are not
members of the Council and such persons shall hold office for
such period as the Council may determine.

(3) Subject to any specific or general direction of the Council,
any committee constituted under this paragraph may regulate its
own procedure.

Allowances

6. A member of the Council or any committee thereof shall
be paid such allowances as the Council may, with the approval of
the Minister, determine.

7. (1) If any person is present at a meeting of the Council or a committee of the Council at which any matter, in which that person or any member of the persons immediate family is directly or indirectly interested in a private capacity, is the subject of consideration, that person shall, as soon as practicable after the commencement of the meeting, disclose that interest and shall not, unless the Council or the committee otherwise directs, take part in any consideration or discussion of, or vote on any question relating to that matter.

Disclosure of interest

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which the disclosure is made.

8. (1) A person shall not, without the consent in writing given by or on behalf of the Council, publish or disclose to any unauthorised person, otherwise than in the course of that person's duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to that person's knowledge in the course of that person's duties under this Act.

Prohibition of publication of, or disclosure of information to unauthorised person

(2) A person who contravenes subparagraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment to a period not exceeding two years, or to both.

(3) A person who, having information which to the knowledge of that person has been published or disclosed in contravention of subparagraph (1), unlawfully publishes or communicates the information to any other person, the person commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(4) Nothing in this section shall be interpreted to prohibit the publication and dissemination of final decisions of the Council with respect to the revocation of registration, practising certificates, licences or accreditation.

9. An action or other proceeding shall not lie or be instituted against a member of the Council, a committee of the Council or a member of staff of the Council, for or in respect of any act or thing done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance, of any of the powers, functions or duties conferred under this Act.

Immunity of member and staff

PART II

FINANCIAL PROVISIONS

- Funds of Council
- 10.** (1) The funds of the Council shall consist of such moneys as may
- (a) be appropriated by Parliament;
 - (b) be paid to the Council by way of fees, levy, grants or donations; or
 - (c) vest in or accrue to the Council.
- (2) The Council may—
- (a) accept moneys by way of grants or donations from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia;
 - (b) raise by way of loans or otherwise, moneys as the Council may require for the discharge of the Council's functions; or
 - (c) in accordance with the regulations made under this Act, charge and collect fees for services provided by the Council.
- (3) There shall be paid from the funds of the Council—
- (a) the salaries, allowances and loans of members of staff of the Council;
 - (b) reasonable traveling, transport and subsistence allowances for members of the Council or members of any committee of the Council when engaged in the business of the Council, at such rates as the Council may, with the approval of the Minister, determine; and
 - (c) any other expenses incurred by the Council in the performance of the Council's functions.
- (4) The Council may invest, in such manner as the Council thinks fit, funds that the Council does not immediately require for the performance of the Council's functions.
- Financial year
- 11.** The financial year of the Council shall be the period of twelve months ending on 31st December in each year.
- Accounts and audit
- 12.** (1) The Council shall cause to be kept proper books of accounts and other records relating to the Council's accounts.

SECOND SCHEDULE

(Section 77)

SAVINGS AND TRANSITIONAL PROVISIONS

Staff of
Council

1. (1) For the avoidance of doubt, a person who, before the commencement of this Act, was an officer or employee of the former Council, shall continue to be an officer or employee of the Council, as the case may be, as if appointed or employed under this Act.

(2) The service of the persons referred to, in subparagraph (1) shall be treated as continuous service.

(3) Nothing in this Act, affects the rights and liabilities of any person employed or appointed by the former Council before the commencement of this Act.

Transfer of
assets and
liabilities

2. (1) On or after the commencement of this Act, there shall be transferred to, vest in and subsist against the Council by virtue of this Act and without further assurance, all assets, rights and obligations which immediately before that date were the assets, rights, liabilities and obligations of the former Council.

(2) Subject to subparagraph (1), every deed, bond and agreement, other than an agreement for personnel service, to which the former Council was a party immediately before the commencement of this Act whether or not of such a nature that rights, liabilities and obligations could be assigned, shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as if—

(a) the Council had been party to it;

(b) for any reference to the former Council there was substituted, with respect to anything falling to be done on or after the commencement of this Act, a reference to the Council; or

(c) for any reference to any officer of the former Council, not being a party to it and beneficially interested, there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to such officer of the Council as the Council shall designate.

7. (1) If any person is present at a meeting of the Council or a committee of the Council at which any matter, in which that person or any member of the persons immediate family is directly or indirectly interested in a private capacity, is the subject of consideration, that person shall, as soon as practicable after the commencement of the meeting, disclose that interest and shall not, unless the Council or the committee otherwise directs, take part in any consideration or discussion of, or vote on any question relating to that matter.

Disclosure of interest

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which the disclosure is made.

8. (1) A person shall not, without the consent in writing given by or on behalf of the Council, publish or disclose to any unauthorised person, otherwise than in the course of that person's duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to that person's knowledge in the course of that person's duties under this Act.

Prohibition of publication of, or disclosure of information to unauthorised person

(2) A person who contravenes subparagraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment to a period not exceeding two years, or to both.

(3) A person who, having information which to the knowledge of that person has been published or disclosed in contravention of subparagraph (1), unlawfully publishes or communicates the information to any other person, the person commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(4) Nothing in this section shall be interpreted to prohibit the publication and dissemination of final decisions of the Council with respect to the revocation of registration, practising certificates, licences or accreditation.

9. An action or other proceeding shall not lie or be instituted against a member of the Council, a committee of the Council or a member of staff of the Council, for or in respect of any act or thing done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance, of any of the powers, functions or duties conferred under this Act.

Immunity of member and staff

PART II

FINANCIAL PROVISIONS

- Funds of Council
- 10.** (1) The funds of the Council shall consist of such moneys as may
- (a) be appropriated by Parliament;
 - (b) be paid to the Council by way of fees, levy, grants or donations; or
 - (c) vest in or accrue to the Council.
- (2) The Council may—
- (a) accept moneys by way of grants or donations from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia;
 - (b) raise by way of loans or otherwise, moneys as the Council may require for the discharge of the Council's functions; or
 - (c) in accordance with the regulations made under this Act, charge and collect fees for services provided by the Council.
- (3) There shall be paid from the funds of the Council—
- (a) the salaries, allowances and loans of members of staff of the Council;
 - (b) reasonable traveling, transport and subsistence allowances for members of the Council or members of any committee of the Council when engaged in the business of the Council, at such rates as the Council may, with the approval of the Minister, determine; and
 - (c) any other expenses incurred by the Council in the performance of the Council's functions.
- (4) The Council may invest, in such manner as the Council thinks fit, funds that the Council does not immediately require for the performance of the Council's functions.
- Financial year
- 11.** The financial year of the Council shall be the period of twelve months ending on 31st December in each year.
- Accounts and audit
- 12.** (1) The Council shall cause to be kept proper books of accounts and other records relating to the Council's accounts.

(2) The accounts of the Council for each financial year shall be audited by one or more persons who publicly carry on the profession of accountants in Zambia, and who shall be appointed auditors to the Council by the Council with the approval of the Auditor-General.

(3) The Council shall, not later than six months after the end of each financial year of the Council, submit to the Minister a report of its activities together with a copy of its audited accounts for that financial year, and the Minister shall not later than fourteen days after the first sitting of the National Assembly next after the receipt of the report, lay it before the National Assembly.

SECOND SCHEDULE

(Section 77)

SAVINGS AND TRANSITIONAL PROVISIONS

Staff of
Council

1. (1) For the avoidance of doubt, a person who, before the commencement of this Act, was an officer or employee of the former Council, shall continue to be an officer or employee of the Council, as the case may be, as if appointed or employed under this Act.

(2) The service of the persons referred to, in subparagraph (1) shall be treated as continuous service.

(3) Nothing in this Act, affects the rights and liabilities of any person employed or appointed by the former Council before the commencement of this Act.

Transfer of
assets and
liabilities

2. (1) On or after the commencement of this Act, there shall be transferred to, vest in and subsist against the Council by virtue of this Act and without further assurance, all assets, rights and obligations which immediately before that date were the assets, rights, liabilities and obligations of the former Council.

(2) Subject to subparagraph (1), every deed, bond and agreement, other than an agreement for personnel service, to which the former Council was a party immediately before the commencement of this Act whether or not of such a nature that rights, liabilities and obligations could be assigned, shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as if—

(a) the Council had been party to it;

(b) for any reference to the former Council there was substituted, with respect to anything falling to be done on or after the commencement of this Act, a reference to the Council; or

(c) for any reference to any officer of the former Council, not being a party to it and beneficially interested, there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to such officer of the Council as the Council shall designate.

(3) Where under this Act, any assets, rights, liabilities and obligations of the former Council are deemed to be transferred to the Council in respect of which transfer a written law provides for registration, the Council shall make an application in writing to the appropriate registration authority for registration of the transfer.

(4) The registration authority, referred to in subparagraph (2), shall make such entries in the appropriate register as shall give effect to the transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse the deeds relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the transaction.

3. (1) Any legal proceedings or application of the former Council pending immediately before the commencement of this Act by or against the former Council may be continued by or against the Council.

Legal
proceedings

(2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former Council, may be instituted by or against the Council.
