

**ANNEXURE D****HEALTH PROFESSIONS ACT, 1974  
(ACT NO. 56 OF 1974)****EXTRACTS****SECTIONS 17, 19 AND 36****Registration a prerequisite for practising**

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

- (a) the profession of a medical practitioner, dentist, psychologist or as an intern or an intern psychologist or any profession registrable in terms of this Act; or
- (b) except in so far as it is authorised by the provisions of the Nursing Act, 1978 (Act No. 50 of 1978), the Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982 (Act No. 63 of 1982), the Pharmacy Act, 1974 (Act No. 53 of 1974), and sections 33, 34 and 39 of this Act, for gain any other profession the practice of which mainly consists of -

- (i) the physical or mental examination of persons;
- (ii) the diagnosis, treatment or prevention of physical or mental defects, illnesses or deficiencies in man;
- (iii) the giving of advice in regard to such defects, illnesses or deficiencies; or
- (iv) the prescribing or providing of medicine in connection with such defects, illnesses or deficiencies,

unless he is registered in terms of this Act.

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

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

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

**Removal of name from, and restoration to, register**

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

- (a) who has been absent from the Republic during the three years immediately preceding such removal;
- (b) who has failed to notify the registrar, within a period of three months as from the date of an enquiry sent by the registrar by certified mail to the address appearing in the register in respect of such person, of his or her present address;

- (c) who has requested that his name be removed from the register, in which case such person may be required to lodge with the registrar an affidavit to the effect that no disciplinary or criminal proceedings are being or are likely to be taken against him;
- (d) who has failed to pay to the professional board, within three months as from the date on which it became due for payment, any annual fee prescribed by the professional board in terms of section 62;
- (e) whose name has been removed from the register, record or roll of any university, hospital, college, society or other body from which that person received the qualification by virtue of the holding whereof he was registered;
- (f) who has been registered in error or through fraud.

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

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

- (a) any registration certificate issued in terms of this Act to the person concerned shall be deemed to be cancelled; and
- (b) such person shall cease to practise the profession in respect of which he was registered or to perform any act which he, in his capacity as a registered person, was entitled to perform,

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

(4) If from the documents submitted to him in terms of section 18(3) of the Mental Health Act, 1973 (Act No. 18 of 1973), it appears to the judge concerned, or it is brought to his notice in any other manner, that the person to whom the documents relate is a person registered under this Act, he shall, if the said person is declared a mentally ill person as contemplated in section 19(1)(b) of the said Mental Health Act, direct that a copy of the order declaring such person a mentally ill person be transmitted to the registrar and the registrar shall, on receipt of the said copy, remove the name of the person concerned from the register.

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

- (a) applying on the prescribed form for such restoration;
- (b) paying the fee prescribed in respect of such restoration (if any);
- (c) in the case where his name has been removed from the register in terms of subsection (4), submitting proof to the satisfaction of the council of his discharge in terms of the provisions of the Mental Health Act, 1973, from the institution at which he had been detained;
- (cA) paying any annual fee which was not paid and payment of an additional fee as may be decided upon; and
- (d) complying with such other requirements as the council may determine.

(6) .....

#### **Penalties for practising as a medical practitioner or as an intern, or for performing certain other acts, while unregistered**

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

- (a) for gain practises as a medical practitioner (whether or not purporting to be registered);
- (b) for gain -
- (i) physically examines any person;
  - (ii) performs any act of diagnosing, treating or preventing any physical defect, illness or deficiency in respect of any person;
  - (iii) advises any person on his physical state;
  - (iv) on the ground of information provided by any person or obtained from him in any manner whatsoever -
    - (aa) diagnoses such person's physical state;
    - (bb) advises such person on his physical state;
    - (cc) supplies or sells to or prescribes for such person any medicine or treatment;
  - (v) prescribes or provides any medicine, substance or thing; or
  - (vi) performs any other act specially pertaining to the profession of a medical practitioner;
- (c) except in accordance with the provisions of the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965), the Pharmacy Act, 1974 (Act No. 53 of 1974), the Health Act, 1977 (Act No. 63 of 1977), the Nursing Act, 1978 (Act No. 50 of 1978), the Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982 (Act No. 63 of 1982), and sections 33, 34 and 39 of this Act, performs any act whatsoever having as its object -
- (i) the diagnosing, treating or preventing of any physical defect, illness or deficiency in any person; and
  - (ii) by virtue of the performance of such act, the obtaining, either for himself or for any other person, of any benefit by way of any profit from the sale or disposal of any medicine, foodstuff or substance or by way of any donation or gift or by way of the provision of accommodation, or the obtaining of, either for himself or for any other person, any other gain whatsoever;
- (d) pretends, or by any means whatsoever holds himself out, to be a medical practitioner or intern (whether or not purporting to be registered) or a healer of whatever description, of physical defects, illness or deficiencies in man;
- (e) uses the name of medical practitioner, intern, healer or doctor or any name, title, description or symbol indicating, or calculated to lead persons to infer, that he is the holder of any qualification as a medical practitioner, physician or surgeon, or as an obstetrician or intern or of any other qualification enabling him to diagnose, treat or prevent physical defects, illnesses or deficiencies in man in any manner whatsoever, or that he is registered under this Act as a medical practitioner or an intern;
- (f) except in accordance with the provisions of the Medicines and Related Substances Act, 1965, the Pharmacy Act, 1974, the Health Act, 1977, the Nursing Act, 1978, the Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982, and sections 33, 34 and 39 of this Act, by words, conduct or demeanour holds himself or herself out to be able, qualified or competent to diagnose, treat or prevent physical defects, illnesses or deficiencies in man or to prescribe or supply any medicine, substance or thing in respect of such defects, illnesses or deficiencies; or
- (g) (i) diagnoses, treats or offers to treat, or prescribes treatment or any cure for cancer;
- (ii) holds himself out to be able to treat or cure cancer or to prescribe treatment therefore; or
  - (iii) holds out that any article, compound, medicine or apparatus is or may be of value for the alleviation, curing or treatment of cancer,

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

- (2) The provisions of subsection (1) shall not prohibit -
- (a) an intern working at an institution recognised by the council from -
    - (i) performing any function or issuing any certificate or other document which in terms of any law, other than this Act, may be or is required to be performed or issued by a medical practitioner, whether described in such law as a medical practitioner or by any other name or designation; or
    - (ii) describing himself as a medical practitioner in connection with the performance of any such function or the issuing of any such certificate or other document, and any reference in any such law to such a medical practitioner shall be deemed to include a reference to an intern;
  - (aA) a student intern in the course of his training from -
    - (i) performing under the supervision of a medical practitioner any act mentioned in paragraph (b) of subsection (1) which has been prescribed;
    - (ii) issuing in connection with such performance of that act in the institution where he is undergoing his training, any document required in respect of the performance of that act;
  - (b) a pharmacist registered under the Pharmacy Act, 1974 (Act No. 53 of 1974), from performing any act falling within the scope of his profession as contemplated in that Act; or
  - (c) a dentist from performing any act falling within the scope of his profession as contemplated in this Act or from using any name, title, description or symbol normally associated with his profession.
- (3) The provisions of subsection (1)(g) shall not -
- (a) apply in respect of any act performed by any person in the course of *bona fide* research at any institution approved for that purpose by the Minister;
  - (b) be construed as prohibiting a dentist from -
    - (i) diagnosing cancer while performing in respect of any person any act pertaining to the practice of dentistry; or
    - (ii) treating cancer so diagnosed;
  - (c) apply in respect of -
    - (i) any act performed by a pharmacist registered under the Pharmacy Act, 1974, or by an employee of such pharmacist acting within the scope of his employment, for the purposes of selling or promoting the sale of any medicine to another pharmacist or to any medical practitioner; or
    - (ii) the sale of any medicine by any pharmacist to any person in pursuance of a written prescription of a medical practitioner.
- (4) For the purposes of subsection (1) "cancer" shall include all neoplasms, irrespective of their origin, including lymphoma and leukaemia.
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