

South Africa

Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982

Act 63 of 1982

Legislation as at 7 May 1993

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Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982

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South Africa

Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982

Act 63 of 1982

Published in Government Gazette 8160 on 21 April 1982

Assented to on 26 March 1982

Commenced on 1 August 1982 by Associated Health Service Professions Act, 1982: Commencement

[This is the version of this document as it was from 7 May 1993 to 31 December 1993.]

[Amended by Associated Health Service Professions Amendment Act, 1985 (Act 108 of 1985) on 20 September 1985]

[Amended by Associated Health Service Professions Amendment Act, 1990 (Act 10 of 1990) on 21 March 1990]

[Amended by Medicines and Related Substances Control Amendment Act, 1991 (Act 94 of 1991) on 12 July 1991]

[Amended by Associated Health Service Professions Amendment Act, 1993 (Act 63 of 1993) on 7 May 1993]

[The Act was amended by the substitution for the word “board” of the word “council” wherever it occurs by section 23 of Act 63 of 1993]

(English text signed by the State President.)

ACT

To provide for the control of the practice of the professions of chiropractor and homeopath and allied health professions, and for that purpose to establish a Chiropractors, Homeopaths and Allied Health Service Professions Council and to determine its functions; and for matters connected therewith.

[long title substituted by section 25 of Act 63 of 1993]

BE IT ENACTED by the State President and the House of Assembly of the Republic of South Africa, as follows:—

1. Definitions

In this Act, unless the context otherwise indicates—

“allied health service profession” means any profession referred to in section 16;

[definition of “allied health service profession” inserted by section 1(a) of Act 63 of 1993]

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

“board” *[definition of “board” deleted by section 1(b) of Act 63 of 1993]*

“council” means the Chiropractors, Homeopaths and Allied Health Service Professions Council established by section 2(1);

[definition of “council” inserted by section 1(c) of Act 63 of 1993]

“medical practitioner” means a person registered as such under the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974);

“Minister” means the Minister of National Health;

[definition of “Minister” substituted by section 1 of Act 10 of 1990 and by section 1(d) of Act 63 of 1993]

“practitioner” means any person registered under this Act or who is deemed to be so registered;

[definition of “practitioner” substituted by section 1(b) of Act 108 of 1985 and by section 1(e) of Act 63 of 1993]

“**prescribed**” means prescribed by regulation;

“**profession**” means the profession of chiropractor or homeopath or an allied health service profession;

[definition of “profession” substituted by section 1(f) of [Act 63 of 1993](#)]

“**professional board**” means a professional board established under section [10A\(3\)](#);

[definition of “professional board” inserted by section 1(g) of [Act 63 of 1993](#)]

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

[definition of “qualification” inserted by section 1(a) of [Act 108 of 1985](#)]

“**register**”, as a noun, means a register kept in terms of this Act, and when used in relation to any category or any member of any category of persons in respect of whom a register is kept, the register kept in respect of that category; and as a verb, means to enter in a register under this Act, and the words “registered” and “registration” and all other words derived from the word “register” shall have a corresponding meaning;

“**registrar**” means the registrar of practitioners and students appointed under section [11\(1\)](#);

“**registration certificate**” means a registration certificate issued in terms of any regulation made under section [38\(1\)\(g\)](#);

“**regulation**” means any regulation made under section [38](#);

“**student**” means any person registered as such in terms of section [18\(1\)](#);

“**this Act**” includes any regulation.

Chapter 1

The Chiropractors, Homeopaths and Allied Health Service Professions Council: Objects and functions

[heading substituted by section 2 of [Act 63 of 1993](#)]

2. Establishment of Chiropractors, Homeopaths and Allied Health Service Professions Council

There is hereby established a juristic person to be known as the Chiropractors, Homeopaths and Allied Health Service Professions Council.

[section 2 substituted by section 3 of [Act 63 of 1993](#)]

3. Objects of council

The objects of the council shall be—

- (a) to assist in the promotion of the health of the population of the Republic;
- (b) to control the practice of the professions and to investigate in accordance with the provisions of this Act complaints relating to the affairs of practitioners and students;
- (c) to control the registration of persons in respect of any profession and to set standards for the training of intending practitioners; and
- (d) to advise the Minister on any matter relating to the professions.

4. General functions of council

- (1) The council may—
- (a) publish the contents of the registers;
 - (b) make extracts from the registers upon payment of the prescribed fees;
 - (c) in accordance with the provisions of this Act, cause any name to be removed from the register or, upon payment of the prescribed fees, cause any such name to be restored thereto;
 - (d) appoint examiners and moderators, conduct examinations and award certificates, and charge the prescribed fees in respect of such examinations and the issue of such certificates;
 - (e) acquire, hire or dispose of property, borrow money against security of the assets of the council, accept any donation or accept and administer any trust;
 - (f) consider any matter affecting the professions and make representations or take such action in connection therewith as the council may deem necessary;
 - (g) conduct or arrange courses for the supplementary training of practitioners and render financial assistance in respect of such courses;
[paragraph (g) substituted by section 2 of [Act 10 of 1990](#)]
 - (gA) approve any clinic established by any university or technikon or other training institution;
[paragraph (gA) inserted by section 4 of [Act 63 of 1993](#)]
 - (h) perform such other functions as may be prescribed; and
- generally do all such things as it may deem necessary or expedient for the purpose of achieving the objects of this Act.
- (2) If the Government of the Republic and the government of a state the territory of which formerly formed part of the Republic agree thereto, the council may perform any function assigned to it by or under a law of that state in connection with the control in that state of the practice of any profession to which this Act relates or of the training of persons intending to practice any such profession, and any such function shall be performed by the council subject to such conditions as may be agreed upon by the Government of the Republic and the government of that state.

5. Constitution of council

- (1) The council shall consist of not less than 12 and not more than 15 members appointed by the Minister, of whom, subject to the provisions of subsection (3)—
- (a) one shall be an officer of the Department of Health and Welfare;
 - (b) five shall be practitioners whose names appear on a list of names of at least 15 practitioners, submitted by the Chiropractic Association of South Africa;
 - (c) five shall be practitioners whose names appear on a list of names of at least 15 practitioners, submitted by the South African Homoeopathic Association.
- (2) Subject to the provisions of section 6, a member of the council shall hold office for a period of five years, but shall be eligible for reappointment.
- (3) If an association referred to in paragraph (b) or (c) of subsection (1) fails at the request of the Minister to submit a list of names in accordance with the appropriate of the said paragraphs, the Minister shall appoint the number of members of the council referred to in that paragraph from among practitioners in the appropriate professions who, in his opinion, have special knowledge of matters concerning one or other of those professions.

- (4) The registrar shall cause notice of the appointment of any member of the council and the date of the appointment to be published in the *Gazette*.

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

- (1) No person—
- (a) who is an unrehabilitated insolvent;
 - (b) who in terms of this Act or the Medical, Dental and Supplementary Health Service Professions Act, 1974 ([Act No. 56 of 1974](#)), is disqualified from practising his profession;
 - (c) who is not a South African citizen permanently resident in the Republic,
- shall be appointed as a member of the council.
- (2) A member of the council shall vacate his office if—
- (a) he becomes subject to any disqualification contemplated in subsection (1);
 - (b) he ceases to hold any qualification necessary for his appointment;
 - (c) he has been absent from more than two consecutive ordinary meetings of the council without the council's leave;
 - (d) he tenders his resignation in writing to the Minister and the Minister accepts his resignation;
 - (e) he becomes a patient or President's patient as defined in section 1 of the Mental Health Act, 1973 ([Act No. 18 of 1973](#));
 - (f) he is convicted in the Republic or elsewhere of an offence for which he is sentenced to imprisonment without the option of a fine; or
 - (g) the Minister in the public interest terminates his membership.
- (3) Any vacancy on the council arising from a circumstance referred to in subsection (2) or caused by the death of a member shall be filled by appointment by the Minister of a person in the vacancy with, in the case of a member who was appointed in accordance with section 5(1)(b) or (c), observance *mutatis mutandis* of the provision concerned, and every member appointed in terms of this subsection shall hold office for the unexpired portion of the period, of office of the member whose office became vacant.

7. Office-bearers

- (1) The council shall in the prescribed manner elect a chairman and vice-chairman.
- (2) The chairman or vice-chairman of the council may vacate his office as chairman or vice-chairman without terminating his membership of the council.

8. Meetings of council

- (1) The council shall meet at the times and places determined by the council, but shall meet at least twice in every year.
- (2) (a) The chairman may at any time convene a special meeting of the council, to be held on such date and at such place as he may determine, and he shall, upon the written request of the Minister or a written request signed by a majority of the members of the council, convene a special meeting, to be held within 30 days after the date of receipt by him of the request, on such date and at such place as he may determine.

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

9. Executive committee of council

- (1) There shall be an executive committee of the council, which shall be constituted as prescribed.
- (2) The executive committee of the council may, subject to the directions of the council, during periods between meetings of the council perform all the functions of the council, but shall not have the power, except in so far as the council otherwise directs, to amend or set aside any decision of the council, and any act performed or decision made by the executive committee shall be of force and effect unless it is amended or set aside by the council at its next ensuing meeting.

10. Other committees of council

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

[subsection (3) substituted by section 2 of [Act 108 of 1985](#)]

10A. Establishment of professional boards for allied health service professions

- (1) If the council deems it in the public interest that a professional board be established in respect of any profession referred to in section 16(1) to promote the standard of professional education and professional conduct among members of such profession, it may, subject to the provisions of subsection (2), recommend to the Minister that a professional board be established in respect of such profession.
- (2) The council shall, before making a recommendation in terms of subsection (1), consult with any body of persons which is representative of the profession concerned.
- (3) The Minister may, after having received a recommendation referred to in subsection (1), by notice in the *Gazette* establish a professional board in respect of the profession to which such recommendation relates.
- (4) The election and term of office of members and the powers and duties of a professional board shall be as prescribed.
- (5) A professional board shall consist of not fewer than three and not more than five members, of whom—
 - (a)
 - (i) one member, in the case of a council consisting of not more than four members; or
 - (ii) not more than two members as the Minister may determine, in the case of a council consisting of five members,shall be a member or members of the council designated by the council; and

- (b) the other members shall be elected by persons registered in terms of this Act in respect of the profession concerned.
- (6) Any professional board established under this section shall, in addition to the performance of any duty prescribed under subsection (4), report to the council on any matter affecting the profession in respect of which such professional board has been established and on any matter referred to it by the council.
- (7) When a report referred to in subsection (6) is considered by the council, the chairman of the professional board concerned shall be present at the meeting at which such report is considered by the council, shall have the right to address the council concerning any matter dealt with in such report, shall have the right to vote if any vote is taken at such meeting in respect of such matter and shall have all the rights and duties of a member of the council attending such meeting.
- (8) Any professional board established under this section may make representations to, or by the mediation of, the council for the making, amendment or withdrawal of any regulation or rule which shall apply or applies to such professional board or the profession in respect of which such professional board was established.

[section 10A inserted by section 5 of [Act 63 of 1993](#)]

11. Appointment of registrar and staff

- (1) The council—
 - (a) shall appoint a registrar; and
 - (b) may appoint such other persons as it may deem necessary for carrying out its functions, on such conditions (including the payment of remuneration and allowances) as it may determine, and may dismiss any person so appointed.
- (2) The registrar shall act as secretary to the council and shall in that capacity perform, in addition to such functions as may otherwise be assigned to him by or under this Act, such functions as may from time to time be assigned to him by the council.

12. Funds of the council

- (1) All fees payable in terms of this Act shall be paid to the council and shall, together with such money as may be obtained or received by the council from any other source, constitute the funds of the council, and the council shall utilize its funds for defraying expenses incurred in connection with the performance of its functions.
- (2) The council may invest any moneys not required for immediate use and may establish such reserve funds and deposit such amounts therein as it may deem necessary or expedient.

13. Rectification of errors and validation of irregular acts

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

Chapter 2 Registration of practitioners and students

Registration of practitioners

14. Keeping of registers

- (1)
 - (a) The registrar shall keep registers in respect of all persons whose applications for registration have been approved by the council after the commencement of the Associated Health Service Professions Amendment Act, 1985.
 - (b) Separate registers shall be so kept in respect of the different professions as well as in respect of practitioners and students, respectively.
 - (c) The registrar shall enter the prescribed particulars regarding each such person in the appropriate register.
- (2) The registers kept by the registrar in terms of this Act up to the date immediately preceding the date of the commencement of the Associated Health Service Professions Amendment Act, 1985, shall be incorporated with and form part of the appropriate registers required to be kept in terms of subsection (1).
- (3) The registrar shall, at intervals to be determined by the council and according to the instructions and under the authority of the council—
 - (a) publish a list containing such particulars as the council may determine of the entries in each register required to be kept in terms of subsection (1); and
 - (b) publish a supplementary list containing such particulars as the council may determine of the additions, amendments and deletions effected in each such register since the last publication of a list in terms of paragraph (a) or in terms of this paragraph.
- (4) Copies of a list or supplementary list published in terms of subsection (3) are obtainable from the registrar on payment of such amount as the council may determine.

[section 14 substituted by section 3 of [Act 108 of 1985](#)]

15. Registration of practitioners

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

be registered in terms of this Act, it shall approve the application, and the registrar shall thereupon register the applicant by—

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

[section 15 substituted by section 4 of [Act 108 of 1985](#) and by section 6 of [Act 63 of 1993](#)]

16. Allied health service professions

- (1) The Minister may, at the request of the council, by notice in the *Gazette* declare the provisions of this Act to be applicable to any profession which has as its object the treatment, prevention or relief of physical defects, illnesses or deficiencies in man, excluding the profession of a chiropractor or homeopath or any profession to which the provisions of the Pharmacy Act, 1974 ([Act No. 53 of 1974](#)), the Medical, Dental and Supplementary Health Service Professions Act, 1974 ([Act No. 56 of 1974](#)), the Nursing Act, 1978 ([Act No. 50 of 1978](#)), or the Dental Technicians Act, 1979 ([Act No. 19 of 1979](#)), apply.
- (2) The Minister may, on the recommendation of the council, by regulation define the scope of any allied health service profession by specifying the acts which shall for the purposes of the application of this Act be deemed to be acts pertaining to that profession: Provided that such regulation shall not be made unless the professional board concerned which has been established in terms of section 10A(3) in respect of any allied health service profession and may in the opinion of the Minister be affected by such regulation, has been given an opportunity of submitting, through the council, representations as to the definition of the scope of the profession concerned: Provided further that if there is a difference of opinion between the council and such professional board as to the definition of the scope of the profession concerned, the council shall mention such fact in its recommendation.

[section 16 repealed by section 5 of [Act 108 of 1985](#) and inserted by section 7 of [Act 63 of 1993](#)]

16A. Control over training

- (1) Notwithstanding anything to the contrary in any law contained, no person, excluding a university or technikon established by or under an Act of Parliament, shall offer or provide any education or training which is intended to qualify any person for the practising of any profession to which the provisions of this Act apply, unless such education or training has been approved by the council.
- (2) Any person wishing to offer or to provide the education or training referred to in subsection (1) shall, before offering or providing such education or training, apply to the council in writing for its approval of such education or training and shall furnish such particulars regarding such education or training as the council may require.

- (3) The council may grant or refuse any application made in terms of subsection (2) and may, if it has granted such application, prescribe such conditions and requirements as it may deem fit subject to which the education or training in question may be provided.
- (4) Any decision made by the council in terms of subsection (3) shall be final.
- (5) Any person who contravenes or fails to comply with any provision of this section, or any condition or requirement prescribed thereunder, shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[section 16A inserted by section 6 of [Act 108 of 1985](#)]

16B. Prescribing of qualifications

- (1) Subject to the provisions of subsection (2), the Minister may from time to time, on the recommendation of the council, prescribe the qualifications obtained by virtue of examinations conducted by a university or other examining authority which, when held singly or conjointly with any other qualification, shall entitle any holder thereof to registration under this Act as a chiropractor, homeopath or practitioner of an allied health service profession, as the case may be, if he has, before or in connection with or after the acquisition of the qualification in question, complied with such conditions or requirements as may be so prescribed.
- (2) No qualification obtained by virtue of examinations conducted by a university or other examining authority situated outside the Republic shall be prescribed under this section unless—
 - (a) such qualification entitles the holder thereof to practise as a chiropractor, homeopath or practitioner of an allied health service profession, as the case may be, in the country or state in which such university or other examining authority is situated;
 - (b) the council is satisfied that possession of such qualification indicates a standard of professional training lower than that prescribed in respect of the training of chiropractors, homeopaths or practitioners of allied health service professions within the Republic.

[section 16B inserted by section 6 of [Act 108 of 1985](#) and substituted by section 8 of [Act 63 of 1993](#)]

16C. Temporary registration

- (1) The council may accept a qualification other than a qualification referred to in section 16B, for the purpose of registration under this subsection, if such qualification, in the opinion of the council, indicates a satisfactory standard of professional education, and may, subject to the provisions of subsections (2) and (3) and section 15(1) and (2), register any person as a chiropractor, homeopath or practitioner of an allied health service profession who possesses such qualification and who, in the opinion of the council, possesses sufficient professional knowledge and ability and is proficient in at least one of the official languages of the Republic.
- (2) A person referred to in subsection (1) may only practise as a chiropractor, homeopath or practitioner of an allied health service profession, as the case may be—
 - (a) for such period or periods as the council may determine, and before the expiration of which he shall satisfy the council that—
 - (i) he possesses professional knowledge and skill which is of a standard not lower than that prescribed in terms of this Act in respect of chiropractors, homeopaths or practitioners of allied health service professions, as the case may be, in the Republic; and
 - (ii) he is conversant with the laws of the Republic relating to chiropractic, homeopathy or the practice of an allied health service profession and the practising of the profession of a chiropractor or homeopath or an allied health service profession, as the case may be;

- (b) in such area or areas as the council may determine; and
- (c) subject to such conditions as the council may determine.
- (3) The council may for the purposes of subsection (2)(a) require the person concerned to sit for such examination or examinations as the council may determine.
- (4) The Minister may from time to time, on the recommendation of the council, make regulations—
 - (a) prescribing the fee to be paid by persons intending to sit for an examination; and
 - (b) prohibiting a person who has failed such examination a prescribed number of times, from sitting again for such an examination.
- (5) If at the expiration of the period referred to in subsection (2)(a) the council is satisfied that a person registered in terms of subsection (1) complies with the requirements of subsection (2)(a)(i) and (ii), it shall exempt such person from all restrictions imposed in respect of him under this section, and if the council is not so satisfied, he shall remove the name of such person from the register.

[section 16C inserted by section 6 of [Act 108 of 1985](#), amended by section 3 of [Act 10 of 1990](#) and substituted by section 9 of [Act 63 of 1993](#)]

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

- (1) Notwithstanding anything to the contrary in any law contained, any person who has been authorized by the council in writing to investigate any matter relating to the education or training of any class of persons registered under this Act, may, for the purpose of making such investigation, enter any Institution or premises, excluding a university or a technikon established by or under an Act of Parliament and any premises of such a university or technikon, utilized in the education or training of any such class of persons.
- (2) Any person who prevents any person authorized in terms of subsection (1) from entering any institution or premises referred to in that subsection or who hinders him in the making therein or thereon of any investigation contemplated in that subsection, shall be guilty of an offence and liable on conviction to a fine not exceeding R100.

[section 16D inserted by section 6 of [Act 108 of 1985](#)]

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

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

[section 16E inserted by section 6 of [Act 108 of 1985](#) and substituted by section 10 of [Act 63 of 1993](#)]

16F. Educational institutions to furnish council with certain particulars

- (1) Every educational institution at which a qualification can be obtained which entitles any holder thereof to registration under this Act, excluding a university or technikon established by or under an Act of Parliament, shall furnish the council on its request with such information relating to entrance requirements, curricula and syllabuses, examinations and any related matter as the council may from time to time require.

[subsection (1) substituted by section 11(a) of [Act 63 of 1993](#)]

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

[subsection (2) substituted by section 11(a) of [Act 63 of 1993](#)]

- (3) The Minister may, when it appears to him upon representations made by the council that satisfactory provision has been made for complying with the requirements of this Act by any educational institution referred to in subsection (1) in respect of any qualification which is the subject of a notice issued under subsection (2), withdraw the said notice.
- (4) A qualification specified in a notice issued under subsection (2) which has been granted by the educational institution to which such notice relates between the date specified in that notice and the date of withdrawal of that notice, shall not entitle the holder thereof to registration under this Act.
- (5) The council may appoint a person to be present whenever tests are being conducted by any educational institution referred to in subsection (1) in respect of the academic progress made by students at such educational institution and to report to the council upon such tests.

[subsection (5) substituted by section 11(b) of [Act 63 of 1993](#)]

- (6) The person in charge of an educational institution referred to in subsection (1) shall forthwith notify the council of the termination of the education or training of a student at such institution, whether by reason of the abandonment or completion of education or training or the transfer of such student to another such institution, or for any other reason.

[subsection (6) substituted by section 11(b) of [Act 63 of 1993](#)]

[section 16F inserted by section 6 of [Act 108 of 1985](#)]

17. Effect of registration as practitioner

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

Registration of students

18. Registration of students

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

[section 18 substituted by section 7 of [Act 108 of 1985](#) and by section 12 of [Act 63 of 1993](#)]

19. ***

[section 19 repealed by section 8 of [Act 108 of 1985](#)]

20. ***

[section 20 repealed by section 9 of [Act 108 of 1985](#)]

Updating, custody and publication of registers

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

- (1) The council may instruct the registrar, subject to the provisions of subsection (5), to remove the name of any practitioner from the register if the council is satisfied that that practitioner—
 - (a) has died;
 - (b) has left the Republic permanently or was absent from the Republic without the board's permission for a continuous period of more than three years;
 - (c) has failed to pay any fees, including annual fees, which he owes the council, within three months after the date upon which payment became due;
 - (d) has failed to notify the registrar of any change in his residential address or postal address or in the address of his practice within three months after any such change;
[paragraph (d) substituted by section 10(b) of [Act 108 of 1985](#)]
 - (e) has requested that his name be removed from the register, in which case he may be required by the registrar to lodge with him an affidavit or affirmation to the effect that no disciplinary or criminal action is being or is likely to be taken against the first-mentioned.
 - (f) has been registered in error or through fraud.
*[paragraph (f) added by section 13(b) of [Act 63 of 1993](#)]**[subsection (1) amended by section 10(a) of [Act 108 of 1985](#) and by section 13(a) of [Act 63 of 1993](#)]*
- (2) Notice of the removal by virtue of the provisions of any one of paragraphs (b) up to and including (f) of subsection (1) of his name from the register shall be given by the registrar to the person concerned by registered letter sent through the post to his address appearing in the register.
[subsection (2) substituted by section 13(c) of [Act 63 of 1993](#)]
- (3) As from the date on which notice was given in terms of subsection (2)—
 - (a) any registration certificate issued to the person concerned shall be deemed to be cancelled;
 - (b) he shall cease to practise any profession in respect of which he was registered as a practitioner or to perform any act specially pertaining to any profession in respect of which he was registered; and
[paragraph (b) substituted by section 10(c) of [Act 108 of 1985](#)]
 - (c) he shall cease to indicate any profession of his upon his nameplate or in any other manner,
*[paragraph (c) substituted by section 10(d) of [Act 108 of 1985](#)]*until his name has been restored to the register.

- (4) The council shall instruct the registrar to restore to the register a name removed therefrom by virtue of the provisions of any one of paragraphs (b) up to and including (f) of subsection (1) if the person concerned—

- (a) applies on the prescribed form for the restoration of his name to the register;
- (b) pays the prescribed fee; and
- (c) complies with such other requirements as the council may determine.

[subsection 4 amended by section 13(d) of [Act 63 of 1993](#)]

- (5) The council shall not under subsection (1) instruct that the name of any person be removed from any register kept under section [15\(3\)\(b\)](#) unless the council has consulted with the professional board (if any) established in respect of the profession concerned.

[subsection (5) added by section 13(e) of [Act 63 of 1993](#)]

22. Custody and publication of registers

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

Chapter 3 Disciplinary powers of the council

23. Inquiry into alleged misconduct

- (1) The council may in respect of chiropractors or homeopaths, and a professional board may in the case of a practitioner practising an associated health service profession in respect of which such professional board has been established, institute an inquiry into any complaint, charge or allegation of improper or disgraceful conduct against any practitioner and may, on finding the practitioner concerned guilty of such conduct, in the case of the council, impose any of the penalties referred to in section [24\(1\)](#) or, in the case of a professional board, recommend the imposition of any such penalty in terms of subsection (3): Provided that in the case of a complaint, charge or allegation which forms or is likely to form the subject of criminal proceedings, the council or the professional board concerned, as the case may be, may postpone the holding of an inquiry until those proceedings have been disposed of.
- (2) Whenever the council or a professional board, as the case may be, is in doubt as to whether an inquiry shall be held, it may in connection with the complaint, charge or allegation in question consult with or seek information from any person, including the practitioner against whom the complaint, charge or allegation has been lodged.
- (3) If a professional board holding an inquiry under this section, finds the person charged guilty of improper or disgraceful conduct or of conduct which in consideration of the profession in respect of which that person is registered, is improper or disgraceful, it shall note its finding and inform such person thereof, and shall at the same time inform such person of the penalty the imposition of which it intends to recommend to the council, and it shall before the next ensuing meeting of the council submit to the council the minutes of the proceedings at the inquiry together with the recommendation concerning a proper penalty.
- (4) Any person found guilty in terms of subsection (3), may at any time before the next ensuing meeting of the council, submit to the council written representations in regard to the finding made by the professional board and the penalty recommended by it.

- (5) If the council, after having considered the minutes kept by the professional board, and the representations referred to in subsection (4), is of the opinion—
 - (a) that the finding should not be upheld, it shall set such finding aside, and inform the person and the professional board concerned thereof; or
 - (b) that the finding is correct, it may impose upon the person concerned any penalty referred to in section 24.
- (6) The provisions of sections 24(2) up to and including (8) and 25 shall *mutatis mutandis* apply in respect of any inquiry conducted by any professional board referred to in subsection (1), and for the purposes of the said provisions any reference in section 24—
 - (a) to the chairman of the council shall be deemed to be a reference to the chairman of such professional board;
 - (b) to the prescribed form of a summons shall be deemed to be a summons as prescribed for use by a professional board.

[section 23 amended by section 11 of [Act 108 of 1985](#) and substituted by section 14 of [Act 63 of 1993](#)]

24. Penalties for misconduct and procedure at inquiry by council

- (1) Any practitioner who after the holding of an inquiry referred to in section 23(1) is found guilty of improper or disgraceful conduct or of conduct which in consideration of any profession in respect of which that practitioner is registered, is improper or disgraceful, shall be liable to one or other of the following penalties, namely—
 - (a) a caution or a reprimand or a reprimand and a caution; or
 - (b) suspension for a specified period from practising any profession in respect of which he is registered or from performing any act specially pertaining to any profession in respect of which he is registered;
 - (c) removal of his name from the register; or
 - (d) a fine not exceeding R10 000.

[paragraph (d) substituted by section 15(a) of [Act 63 of 1993](#)]

[subsection (1) substituted by section 12(a) of [Act 108 of 1985](#)]

- (2) Any penalty imposed under subsection (1) shall be reduced to writing, signed by the chairman of the council and made known to the practitioner concerned, and thereafter the registrar shall cause the name of that practitioner and the penalty so imposed to be published in the *Gazette*.

[subsection (2) amended by section 12(b) of [Act 108 of 1985](#)]

- (3) (a) The council or any committee of the council, where any such committee holds an inquiry under powers delegated to it by the council, may for the purposes of any such inquiry take evidence and may, under the hand of the chairman of the council or the chairman of any such committee or the secretary of the council, summon any witness and require the production of any book, record, document or article, and may through the chairman concerned administer the oath to or accept an affirmation from any witness, and may examine any book, record, document or article which a witness has been so required to produce.
- (b) A summons to appear before the council or the committee concerned as a witness or to produce to it any book, record, document or article, shall, as nearly as practicable, be in the prescribed form and shall be served either by registered letter sent through the post or in the same manner as a subpoena in civil proceedings in a magistrate's court.

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

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

[paragraph (c) amended by section 15(b) of [Act 63 of 1993](#)]

- (4) The chairman of the council, where the council itself holds any such inquiry, or the chairman of any committee of the council holding any such inquiry, may appoint a person with adequate experience in the administration of justice as an assessor at the inquiry to advise the council or the committee concerned, as the case may be, on matters of law, procedure or evidence.
- (5) In any case where the evidence in support of any complaint, charge or allegation is of a documentary nature, and in any other case which the council may think fit, the secretary of the council may act as *pro forma* complainant at the inquiry concerned.
- (6) Any practitioner whose conduct is being inquired into in terms of section [23\(1\)](#), shall at the inquiry concerned be afforded the opportunity of personally or through his legal representative answering the complaint, charge or allegation concerned and being heard in his defence.

[subsection (6) amended by section 12(b) of [Act 108 of 1985](#)]

- (7) The council may on such conditions as it may determine—
- (a) terminate any suspension imposed under subsection [\(1\)\(b\)](#) before the expiry of the specified period;
 - (b) on payment of the prescribed fee, restore to the register any name which has been removed therefrom by virtue of a penalty imposed under subsection [\(1\)\(c\)](#).
- (8) (a) A penalty imposed under subsection [1\(d\)](#) shall be paid to the registrar within 14 days after such imposition.
- (b) *[paragraph (b) deleted by section 15(c) of [Act 63 of 1993](#)]*
- (c) The imposition of a penalty in terms of subsection [\(1\)\(d\)](#), shall have the effect of a civil judgment of the magistrate's court of the district in which the inquiry by the council took place.

[subsection (8) added by section 12(c) of [Act 108 of 1985](#)]

- (9) If any person registered in terms of this Act is alleged to be guilty of improper or disgraceful conduct or conduct which, in consideration of the profession in respect of which that person is registered, is improper or disgraceful, and the council or a professional board is of the opinion that on conviction after an inquiry under section [23](#), a fine not exceeding R2 500 shall be imposed upon him, the council or professional board may issue a summons as prescribed against such person

upon which an endorsement is made by the council or a professional board that such person may admit that he is guilty of the said conduct and that he may pay the fine stipulated.

[subsection (9) added by section 15(d) of [Act 63 of 1993](#)]

- (10) If a person summoned in terms of subsection (9), admits his guilt in respect of the conduct referred to in subsection (1) by paying the stipulated fine to the council before a date specified in the summons, an inquiry shall not be held under section 23.

[subsection (10) added by section 15(d) of [Act 63 of 1993](#)]

- (11) Payment of a fine in terms of subsection (10) shall not be regarded as a previous conviction with regard to any subsequent inquiry into the conduct of such person and shall not be published in the *Gazette* in terms of subsection (2).

[subsection (11) added by section 15(d) of [Act 63 of 1993](#)]

- (12) The Minister may, on the recommendation of the council, by notice in the *Gazette* amend the amount referred to in subsection (9).

[subsection (12) added by section 15(d) of [Act 63 of 1993](#)]

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

- (1) Where the council finds any practitioner guilty of conduct referred to in section 24(1) or imposes a penalty in terms of section 23(5)(b), it may—
- (a) postpone the imposition of a penalty for such period and on such conditions as it may determine; or
 - (b) impose any penalty referred to in section 24(1)(b) (c) or (d), but order the execution of the penalty (or any part thereof in the case of a penalty referred to in section 24(1)(b)) to be suspended for such period and on such conditions as it may determine.
- (2)
- (a) If at the end of the period for which the imposition of a penalty has been postponed in terms of subsection (1)(a), the council is satisfied that the practitioner concerned has observed all the relevant conditions, the council shall inform him that no penalty will be imposed upon him.
 - (b) If the execution of a penalty or any part thereof has been suspended in terms of subsection (1)(b) and the council is satisfied that the practitioner concerned has observed all the relevant conditions throughout the period of suspension, the council shall inform him that the penalty will not be executed.
 - (c) If the execution of a penalty or any part thereof has been suspended in terms of subsection (1)(b) and the practitioner concerned fails to observe any one of the conditions of suspension, the council shall execute the penalty unless that practitioner satisfies the council that the non-observance of the condition concerned was due to circumstances beyond his control.

[section 25 amended by section 13 of [Act 108 of 1985](#) and substituted by section 16 of [Act 63 of 1993](#)]

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

- (1) Any practitioner who has under this Act been suspended from the practice of any profession in respect of which he is registered or any former practitioner whose name has been removed from the register by virtue of any penalty imposed under section 24(1)(c) or 32(3), shall be disqualified from practising any profession in respect of which he is or was registered, as the case may be, or from performing any act specially pertaining to any such profession, and any registration certificate

issued to him shall be deemed to be cancelled, and he shall cease to indicate any such profession upon his nameplate or in any other manner, until—

- (a) in the case of a suspension, the period of suspension has expired; or
 - (b) in the case of a removal of his name from the register, his name has been restored to the register.
- (2) *[subsection (2) deleted by section 14(a) of [Act 108 of 1985](#)]*
- (3) The council may—
- (a) after the expiry of such period as the council may in each case determine;
 - (b) upon receipt of a written application by a person referred to in subsection (1) whose name has been removed from the register; and
- [paragraph (b) amended by section 14(b) of [Act 108 of 1985](#)]*
- (c) upon payment of the prescribed fees,

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

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

- (1) Any practitioner who, either before or after registration, has been convicted in the Republic or elsewhere of any offence, may be dealt with by the council or a professional board concerned in terms of this Chapter if the council or professional board concerned is of the opinion that the offence concerned constitutes conduct which is improper or disgraceful or which in consideration of any profession in respect of which the practitioner concerned is registered, is improper or disgraceful, and that practitioner shall, upon proof of the conviction, be liable to one or other of the penalties referred to in section [24\(1\)](#): Provided that the said practitioner shall, before any penalty is imposed, be afforded the opportunity of tendering an explanation to the council or professional board concerned in mitigation of any such penalty.
- (2)
 - (a) When in the course of any criminal proceedings it appears to the court that there is *prima facie* proof of conduct contemplated in section [24\(1\)](#) on the part of a practitioner, the court shall direct that a copy of the record of the proceedings or of such portion thereof as is material to such conduct, be transmitted to the council.
 - (b) If the practitioner practises a profession in respect of which a professional board has been established, the council shall transmit a copy of the record referred to in paragraph (a) to such professional board.

[section 27 substituted by section 15 of [Act 108 of 1985](#) and by section 17 of [Act 63 of 1993](#)]

28. Penalty for false evidence

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

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

- (1)
 - (a) The council shall from time to time make rules specifying the acts or omissions in respect of which the council or a professional board, as the case may be, may take disciplinary action under this Chapter: Provided that the powers of the council or a professional board to inquire into and take any action in connection with any complaint, charge or allegation of improper

or disgraceful conduct against any practitioner in terms of this Chapter, shall not be limited to the acts or omissions so specified.

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

[section 29 amended by section 16 of [Act 108 of 1985](#) and substituted by section 18 of [Act 63 of 1993](#)]

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

- (1) When it appears to the council that any practitioner—
 - (a) has become mentally or physically disabled to such an extent that it would be detrimental to the public interest to allow him to continue to practise any profession in respect of which he is registered or to perform any act specially pertaining to any profession in respect of which he is registered; or
 - (b) has become addicted to the use of any scheduled substance as defined in section 1(1) of the Medicines and Related Substances Control Act, 1965 ([Act No. 101 of 1965](#)),the council shall cause the matter to be investigated and may, if it deems it necessary, hold an inquiry in respect of that practitioner *mutatis mutandis* in accordance with the provisions of section 24 and the regulations made under section 38(1)(q).
- (2) If the council, after holding an inquiry under subsection (1), finds that any circumstance referred to in that subsection exists in respect of the practitioner concerned, it may by order—
 - (a) suspend that practitioner for a specified period from practising any profession in respect of which he is registered or from performing any act specially pertaining to any profession in respect of which he is registered; or
 - (b) impose such conditions as it may deem fit subject to which that practitioner will be entitled to continue practising any such profession or with the performance of any such act.
- (3) The council may extend for any period the operation of any order made under subsection (2) or in any other manner amend any such order or withdraw any such order.
- (4) The provisions of section 26 shall *mutatis mutandis* apply in respect of any practitioner who has been suspended under a provision of subsection (2) of this section.
- (5) When the council has made any order under subsection (2), the registrar shall inform the practitioner concerned thereof in writing.
- (6) Any practitioner who contravenes or fails to comply with any order made under subsection (2), shall be guilty of an offence and on conviction liable to a fine not exceeding R100.

[section 30 substituted by section 17 of [Act 108 of 1985](#)]

Chapter 4

Offences, penalties and other judicial matters

31. Offences by unregistered persons, and penalties

- (1) Subject to the provisions of subsection (2) of this section and section 41, any person who is not registered as a practitioner in a particular profession and who—
- (a) for gain practises any such profession;
 - (b) for gain performs any act specially pertaining to any such profession;
 - (c) pretends, or by any means whatsoever holds himself out, to be any such practitioner, whether or not purporting to be registered;
 - (d) uses the title of chiropractor, homeopath, naturopath, osteopath, herbalist or an allied health service profession or any other title or any name, description or symbol indicating, or calculated to lead persons to infer, that he holds the qualifications of a chiropractor, homeopath, naturopath, osteopath or herbalist or an allied health service profession;
- [paragraph (d) substituted by section 19(a) of [Act 63 of 1993](#)]*
- (2) The provisions of subsection (1) shall not prohibit—
- (a) any person exercising a profession to which the provisions of the Pharmacy Act, 1974 ([Act No. 53 of 1974](#)), the Medical Dental and Supplementary Health Service Professions Act, 1974 ([Act No. 56 of 1974](#)), the Nursing Act, 1978 ([Act No. 50 of 1978](#)), or the Dental Technicians Act, 1979 ([Act No. 19 of 1979](#)), apply, from performing any act pertaining to his profession, as contemplated in the appropriate Act, which may lawfully be performed by him;
 - (b) a chiropractor or homeopath of performing any act pertaining to an allied health service profession, if such act is an act which also pertains to the profession of a chiropractor or homeopath, as the case may be.

[subsection (2) amended by section 18 of [Act 108 of 1985](#) and substituted by section 19(b) of [Act 63 of 1993](#)]

32. Offences by practitioners and students, and penalties

- (1) (a) A practitioner or a student shall not—
- (i) perform any operation on or administer any injection, excluding any intramuscular or hypodermic injection, to any person;
 - (ii) practise obstetrics;
 - (iii) withdraw an intravenous blood sample from any person or analyse human blood;
 - (iv) treat or offer to treat cancer or prescribe a remedy for cancer or pretend that any article, apparatus or substance will or may be of value for the alleviation of the effects or for the curing or treatment of cancer;
 - (v) perform an act contemplated in section 37 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 ([Act No. 56 of 1974](#));
 - (vi) pretend, or by any means whatsoever hold himself out, to be a medical practitioner, or make use of the title of medical practitioner or doctor or any other title or any name, description or symbol indicating, or calculated to lead persons to infer, that he holds the qualifications of a medical practitioner;

- (vii) prevent any person from being treated by, or improperly influence any person to abstain from treatment by, a person registered under the said Medical, Dental and Supplementary Health Service Professions Act, 1974.
 - (b) A practitioner in the profession of homeopath, naturopath, osteopath or herbalist or any allied health service profession or a student who is registered in respect of any such profession shall not—
 - (i) perform an internal examination on any person;
 - (ii) for clinical diagnostic procedures regarding any patient of his or the patient of another practitioner—
 - (aa) use, operate or apply any electronic product as defined in section 1 of the Hazardous Substances Act, 1973 ([Act No. 15 of 1973](#)), which has under section 2 (1) of that Act been declared to be a Group III hazardous substance;
 - (bb) read and interpret Rontgen plates.
- [paragraph (b) amended by section 20 of [Act 63 of 1993](#)]*
- (2) A practitioner or student who contravenes any provision of subsection (1), shall be guilty of an offence and on conviction liable to a fine not exceeding R500 or to imprisonment not exceeding six months or to both that fine and that imprisonment.
 - (3) The court convicting any practitioner or student of any offence under subsection (2), shall in addition to or in lieu of any sentence referred to in that subsection, order that the name of the practitioner or student concerned be removed from the register, and the court shall thereafter give notice to the registrar of the order.
 - (4) For the purposes of subsection (1) “cancer” shall include all neoplasms, irrespective of their origin, including lymphoma and leukemia.

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

A receipt purporting to be issued—

- (a) within the preceding 12 months;
- (b) by or on behalf of the council;
- (c) in respect of annual fees;
- (d) to a person of a name substantially corresponding to that of a practitioner who is involved in any proceedings in a court of law,

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

[section 33 substituted by section 19 of [Act 108 of 1985](#)]

34. Proof of certain facts by certificate

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

[section 34 amended by section 20 of [Act 108 of 1985](#)]

35. Presumptions

- (1) At any criminal proceedings against any person appearing upon a charge of having performed any act which constitutes an offence under this Act if performed by a person who is not registered as a practitioner in a particular profession, the accused shall be deemed not to have been so registered at the time of the commission of the alleged offence, unless the accused proves the contrary.
- (2) At any criminal proceedings against any person appearing upon a charge of having performed any act which constitutes an offence under this Act if performed by him for gain, that person shall be deemed to have performed that act for gain if he has accepted, whether for himself or for any other person, any valuable consideration in respect of the said act.
- (3) When any person is charged with a contravention of any provision of the Medical, Dental and Supplementary Health Service Professions Act, 1974 ([Act No. 56 of 1974](#)), and it is alleged that any act was at the commencement of this Act usually performed by persons who practise any profession to which this Act relates in the Republic, the onus of proving it shall be upon the person alleging it.

36. Limitation of liability

The registrar or the council or a committee of the council or any member or officer of the council or of a committee of the council shall not be liable for any act done in good faith under this Act.

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

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

[section 37 substituted by section 21 of [Act 108 of 1985](#)]

Chapter 5 General and supplementary provisions

38. Regulations

- (1) The Minister may on the recommendation of the council make regulations relating to—
 - (a) the terms of office of the office-bearers of the council;
 - (b) the conduct of the business, and the quorum and procedure, at meetings of the council and professional boards, the executive committee and other committees of the council, and the manner in which minutes of such meetings shall be kept;
[paragraph (b) substituted by section 21(a) of [Act 63 of 1993](#)]
 - (c) the allowance which may be paid to members of the council or of professional boards, the executive committee and other committees of the council, excluding members in the full-time service of the State, when occupied with the affairs of the council;
[paragraph (c) substituted by section 21(a) of [Act 63 of 1993](#)]
 - (d) the fees which may be prescribed under any provision of this Act;
 - (e) the manner in which the accounts of the council shall be kept;
 - (f) the standards to which the training of any person who in terms of section 15(1) applies for registration as a practitioner in a specified profession, shall conform;
 - (g) the issue by the registrar of registration certificates and duplicate registration certificates to practitioners and students, the form thereof and the fees payable in respect of such issue;

- (h) amendment or revision of the registers;
- (i) the acts specially pertaining to any specified profession;
- (j) the conditions subject to which practitioners may practise the professions in respect of which they have been registered;
- (k) the tariff of fees which may be charged in respect of professional services rendered by a practitioner;
- (l) the remedies which a practitioner may in the practice of any profession in respect of which he is registered, prescribe or prepare for or supply to a patient of his, or may have in his possession or under his control for the practise by him of any such professions;
[paragraph (l) substituted by section 22(a) of [Act 108 of 1985](#)]
- (m) the exemption from the provisions of any regulation made under paragraph (l) of a practitioner who was at the commencement of the Homeopaths, Naturopaths, Osteopaths and Herbalists Amendment Act, 1980 ([Act No. 40 of 1980](#)), in the practice of his profession lawfully making use of any remedy not mentioned in any such regulation, with regard to that remedy;
- (n) the tariff of fees which may be charged by a practitioner in respect of remedies supplied by him in the practice of his profession;
- (o) *[paragraph (o) deleted by section 22(b) of [Act 108 of 1985](#)]*
- (p) *[paragraph (p) deleted by section 22(b) of [Act 108 of 1985](#)]*
- (q) the institution of an inquiry in terms of Chapter 3, including—
 - (i) the manner in which a complaint, charge or allegation against a practitioner or student shall be lodged;
 - (ii) the form of a summons for the attendance at any such inquiry of the practitioner or student whose conduct is being investigated; and
 - (iii) the manner of conducting any such inquiry, the procedures to be followed thereat and any other matter connected with the institution or conducting thereof;
- (r) the payment of annual fees by practitioners or students (including the determination by any person of the amount of such fees), and exemption from such payment or reduction of such fees;
- (s) any matter which in terms of any provision of this Act is required to be or may be prescribed by regulation;
[paragraph (s) amended by section 22(c) of [Act 108 of 1985](#)]
- (SA)
 - (i) the registration of students in terms of this Act, the conditions subject to which they are registered, the maintenance and alteration of such registration and the circumstances in which the name of a student who is or was so registered may be removed from or restored to the register in question;
 - (ii) the minimum requirements of the curricula and the standards of education and examinations which shall be maintained at any educational institution at which such education is provided, in order to secure recognition under this Act of the qualification concerned obtained at such educational institution;
[subparagraph (ii) substituted by section 21(b) of [Act 63 of 1993](#)]
 - (iii) the standards of general education required of such students as a condition precedent to such registration;

- (iv) the duration of the curricula to be followed by such students at educational institutions referred to in subparagraph (ii); and;
[paragraph (sA) inserted by section 22(d) of [Act 108 of 1985](#)]
- (t) generally, all matters which he considers necessary or expedient in order to give effect to the objects of this Act.
- (2) (a) The Minister may, after consultation with the executive committee of the council and if he deems it to be in the public interest, without the recommendation of the council make regulations relating to any of the matters referred to in subsection (1) or amend or repeal any regulation made under that subsection.
[paragraph (a), previously subsection (2), renumbered by section 21(c) of [Act 63 of 1993](#)]
- (b) Any regulation pertaining to a professional board or the profession in respect of which it is established, shall be made only after consultation with the professional board concerned.
[paragraph (b) added by section 21(c) of [Act 63 of 1993](#)]
- (3) The provisions of subsection (1)(l) and (m) shall not be applicable to a remedy which is a Scheduled substance as defined in section 1 of the Medicines and Related Substances Control Act, 1965.
[subsection (3) substituted by section 27 of [Act 94 of 1991](#)]
- (4) Any regulation made under this section may prescribe a penalty for any contravention thereof or failure to comply therewith, of a fine, or imprisonment for a period not exceeding three months.
[subsection (4) substituted by section 21(d) of [Act 63 of 1993](#)]
- (5) Different regulations may be made under this section in respect of different categories of practitioners or students.
- (6) The council shall not issue a receipt for annual fees payable by virtue of any regulation under subsection (1)(r), unless payment of the full amount of current annual fees and of all arrear annual fees, if any, is tendered at one and the same time.
- (7) The council may from time to time determine and publish requirements with regard to the manufacture, packing and labelling of remedies which may be prescribed, prepared or supplied by a practitioner in terms of subsection (1)(l) for the purposes of the practising of his registered profession.
[subsection (7) added by section 22(f) of [Act 108 of 1985](#)]

38A. Charges by registered persons

- (1) Every practitioner shall, unless the circumstances render it impossible for him to do so, and before rendering any professional services, inform the person to whom the services are to be rendered or any person responsible for the maintenance of such person, of the fee which he intends to charge for such services—
 - (a) when so requested by the person concerned; or
 - (b) when such fee exceeds that usually charged for such services,
 and shall in a case to which paragraph (b) relates, also inform the person concerned of the usual fee.
- (2) Any practitioner who in respect of any professional services rendered by him claims payment from any person (in this section referred to as the patient) shall furnish the patient with a detailed account within a reasonable period.
- (3) (a) The patient may, within three months after receipt of the account referred to in subsection (2), apply in writing to the council to determine the amount which in the opinion of the council should have been charged in respect of the services to which the account relates,

and the council shall, as soon as possible after receipt of the application, determine the said amount and notify the practitioner and the patient in writing of the amount so determined: Provided that before the council determines the said amount, it shall afford the practitioner concerned an opportunity to submit to it in writing his case in support of the amount charged.

- (b) A determination made by the council under this section shall be final.
- (c) The Minister may, after consultation with the council, make such regulations as he may deem necessary in relation to the procedure which the council shall follow in disposing of an application under this subsection.
- (d) The council may from time to time determine and publish the fees used by the council as a norm for the determination of amounts contemplated in paragraph (a).
- (4) A claim which is the subject of an application referred to in subsection (3) of which notice has been given by the council or the patient to the practitioner, shall not be recoverable until a determination has been made in terms of that subsection, and when such a determination has been made no amount which exceeds the amount so determined shall be payable: Provided that if the patient has paid to the practitioner an amount in settlement or part settlement of such claim and such amount exceeds the amount so determined, the practitioner shall refund to the patient the amount by which that payment exceeds the amount so determined.
- (5) This section shall not be deemed to divest the council of any of its powers or functions under Chapter 3 with regard to acts or omissions in respect of which it may take disciplinary steps.

[section 38A inserted by section 23 of [Act 108 of 1985](#)]

38B. Appeal

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

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

[section 38B inserted by section 22 of [Act 63 of 1993](#)]

38C. Exemption from operation of provisions of Act

- (1) The Minister may, on the recommendation of the council, by notice in the *Gazette* exempt any juristic person or class of juristic persons specified in the notice, either generally or subject to such conditions as may be specified in the notice, from the operation of any of the provisions of this Act, so as to enable such juristic person to practise a profession, likewise specified, in respect of which registration in terms of this Act is a prerequisite for practising.
- (2) Any reference in this Act or any other law to a person registered in terms of this Act to practise a profession referred to in subsection (1) or to a partner of or a partnership in relation to such registered person shall be deemed to include a reference to a juristic person referred to in subsection (1) or to a member of such a juristic person, as the case may be, unless the context otherwise indicates.
- (3) The Minister may, on the recommendation of the council, at any time by notice in the *Gazette* amend or repeal any notice issued under subsection (1).

[section 38C inserted by section 22 of [Act 63 of 1993](#)]

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

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

[section 39 substituted by section 24 of [Act 108 of 1985](#)]

40. Saving

The provisions of the Medical, Dental and Supplementary Health Service Professions Act, 1974 ([Act No. 56 of 1974](#)), shall not be construed as prohibiting any practitioner from performing for gain any act usually performed at the commencement of this Act by persons who practise the profession concerned in the Republic and the performance of which by any such practitioner is not prohibited by this Act.

[section 40 substituted by section 25 of [Act 108 of 1985](#)]

41. Interpretation of laws in regard to certain medicine men and herbalists

The provisions of this Act and of the Medical, Dental and Supplementary Health Service Professions Act, 1974 ([Act No. 56 of 1974](#)), shall not be construed as derogating from the right which a medicine man or herbalist contemplated in the Code of Zulu Law may have to practise his profession.

42. Repeal of laws, and transitional provisions

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

- (2) Anything done under any provision of any law repealed by subsection (1) shall, unless inconsistent with the provisions of this Act, be deemed to have been done under the provisions of this Act.
- (3) Every person—
- (a) who was registered otherwise than provisionally under the Homeopaths, Naturopaths, Osteopaths and Herbalists Act, 1974 ([Act No. 52 of 1974](#)); or
 - (b) whose name was entered on the list referred to in section 2 of the Chiropractors Act, 1971 ([Act No. 76 of 1971](#)),
- shall, if the registration contemplated in paragraph (a) or the entry contemplated in paragraph (b) was in force immediately before the commencement of this Act, be deemed to be registered under this Act as a practitioner in the profession in respect of which he was so registered or his name was so entered.
- (4) Any document purporting to be a certificate issued to a practitioner referred to in subsection (3) by virtue of a registration contemplated in paragraph (a) of the said subsection or of an entry contemplated in paragraph (b) of that subsection, and evidencing the fact of any such registration or entry, shall for the purposes of this Act be deemed to be a registration certificate.

43. Short title and commencement

This Act shall be called the Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982.

[section 43 substituted by section 24 of [Act 63 of 1993](#)]

Schedule
Laws repealed

Number and year of law	Title of law	Extent of repeal
Act No. 76 of 1971	Chiropractors Act, 1971	The whole
Act No. 96 of 1972	Chiropractors Amendment Act, 1972	The whole
Act No. 52 of 1974	Homeopaths, Naturopaths, Osteopaths and Herbalists Act, 1974	The whole
Act No. 20 of 1976	Chiropractors Amendment Act, 1976	The whole
Act No. 36 of 1977	Health Laws Amendment Act, 1977	Sections 4 up to and including 8
Act No. 40 of 1980	Homeopaths, Naturopaths, Osteopaths and Herbalists Amendment Act, 1980	The whole