

South Africa

## Associated Health Service Professions Act, 1982

Act 63 of 1982

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# Associated Health Service Professions Act, 1982

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## South Africa

# Associated Health Service Professions Act, 1982

## Act 63 of 1982

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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 21 April 1982 to 19 September 1985.]*

(English text signed by the State President.)

## ACT

To provide for the control of the practice of the professions of chiropractor, homeopath, naturopath, osteopath and herbalist, and for that purpose to establish a South African Associated Health Service Professions Board and to determine its functions; and for matters connected therewith.

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—

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

“**board**” means the South African Associated Health Service Professions Board established by section 2(1);

“**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 Health and Welfare;

“**practitioner**” means any person registered as such under section 14(2);

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

“**profession**” means the profession of chiropractor, homeopath, naturopath, osteopath or herbalist;

“**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 South African Associated Health Service Professions Board: Objects and functions**

#### **2. Establishment of South African Associated Health Service Professions Board**

- (1) There is hereby established a juristic person to be known as the South African Associated Health Service Professions Board.
- (2) The head office of the board shall be situated in Pretoria.

#### **3. Objects of board**

The objects of the board 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 board**

- (1) The board 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 board, 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 board may deem necessary;
  - (g) conduct or arrange courses for the supplementary training of practitioners and students and render financial assistance in respect of such courses;
  - (h) perform such other functions as may be prescribed; andgenerally 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 board 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 board subject to such conditions as may be agreed upon by the Government of the Republic and the government of that state.

## 5. Constitution of board

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

## **8. Meetings of board**

- (1) The board shall meet at the times and places determined by the board, but shall meet at least twice in every year.
- (2)
  - (a) The chairman may at any time convene a special meeting of the board, 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 board, 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 board**

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

## **10. Other committees of board**

- (1) The board may from time to time establish such other committees, constituted as prescribed, as it may deem necessary, to investigate and report to the board on any matter falling within the scope of its functions.
- (2)
  - (a) Subject to the provisions of subsection (3), the board may delegate to any committee established under subsection (1) such of its powers as the board may from time to time determine.
  - (b) The board 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 board: Provided that an order made by any such committee under section 30(2) 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 board within that period.

## **11. Appointment of registrar and staff**

- (1) The board—
  - (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 board 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 board.

## **12. Funds of the board**

- (1) All fees payable in terms of this Act shall be paid to the board and shall, together with such money as may be obtained or received by the board from any other source, constitute the funds of the board, and the board shall utilize its funds for defraying expenses incurred in connection with the performance of its functions.
- (2) The board 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 board 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. Registers of practitioners**

- (1) The registrar shall keep separate registers of practitioners in the different professions.
- (2) When the board under section 16 so instructs him, the registrar shall enter the name of the person concerned in the appropriate register.
- (3) The register shall contain, in addition to the name of each practitioner and his address, such other particulars in respect of him as the board may determine.

## **15. Application for registration as practitioner**

- (1) Any person who intends to be registered as a practitioner in terms of this Act, shall apply in writing to the board for registration.
- (2) For the purposes of considering any application contemplated in subsection (1), the board may require the applicant in support of the application to furnish such proof, whether orally, in writing or in the form of an examination, as the board may deem necessary.

## 16. Registration of practitioners

- (1) The board may instruct the registrar to register a person as a practitioner if he—
  - (a) has submitted proof to the satisfaction of the board—
    - (i) in the case of a prospective chiropractor, that on 16 June 1971, and, in the case of a prospective homeopath, naturopath, osteopath or herbalist, that on 2 December 1974, he was a South African citizen;
    - (ii) that on the appropriate date referred to in subparagraph (i), he was practising the profession concerned for gain elsewhere than in the Republic;
    - (iii) that he became permanently resident in the Republic since the commencement of this Act;
    - (iv) that he applied for registration within six months after his return to the Republic;
    - (v) that his training conforms to the prescribed standards;
    - (vi) of his identity and good character; and
    - (vii) that he is proficient in at least one of the official languages of the Republic; or
  - (b) is a person whose name appears in the register referred to in section 18(1) as that of a student in respect of the profession concerned and his training conforms to the prescribed standards; or
  - (c) in the case of a prospective chiropractor, has submitted proof to the satisfaction of the board that on 16 June 1971 he was a South African citizen and was studying elsewhere than in the Republic in order to qualify as a chiropractor, that he has completed his studies and that his training conforms to the prescribed standards.
- (2) The board may instruct the registrar—
  - (a) to remove from the register the name of a person deemed in terms of section 42(3)(a) to be registered under this Act as a practitioner in one or other profession and to register such a person as a practitioner in any other profession, if the board is of the opinion that the registration of that person as a practitioner in any such other profession is more appropriate in view of the training which he has undergone;
  - (b) to register a person deemed in terms of section 42(3)(a) to be registered under this Act as a practitioner in one or other profession as a practitioner also in any other profession, if the board is of the opinion that such a person qualifies for registration as a practitioner in any such other, profession in view of the training which he has undergone.

## 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. Register of students

- (1) The registrar shall keep a register of students in which he shall enter the name of every person who immediately before the commencement of this Act was provisionally registered under section 3(2) or (3) of the Homeopaths, Naturopaths, Osteopaths and Herbalists Act, 1974 ([Act No. 52 of 1974](#)),

in respect of any one or more of the professions as being a student in respect of such profession or professions.

- (2) The register shall contain, in addition to the name of each student, his address and the profession or professions in respect of which he is registered, such other particulars in respect of him as the board may determine.

## **19. Board may amend or set aside certain conditions with regard to former registration of students**

The board may in its discretion amend or set aside any condition determined by the South African Homoeopathic Association under section 3(2) of the Homeopaths, Naturopaths, Osteopaths and Herbalists Act, 1974 ([Act No. 52 of 1974](#)), subject to which a student was provisionally registered under that provision of that Act.

## **20. Effect of registration as student**

Subject to the provisions of this Act, registration confers upon a student the right to perform only such acts specially pertaining to each profession in respect of which he is registered as he is authorized under this Act to perform.

## **Updating, custody and publication of registers**

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

- (1) The board may instruct the registrar to remove the name of any practitioner or student from the register if the board is satisfied that that practitioner or student—
  - (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 board, within three months after the date upon which payment became due;
  - (d) has failed to notify the registrar of any change in his address within three months after any such change;
  - (e) has requested that his name be removed from the register, in which case he may be required by the registrar to lodge with him an affidavit or affirmation to the effect that no disciplinary or criminal action is being or is likely to be taken against the first-mentioned.
- (2) Notice of the removal by virtue of the provisions of any one of paragraphs (b) up to and including (e) of subsection (1) of his name from the register shall be given by the registrar to the person concerned by registered letter sent through the post to his address appearing in the register.
- (3) As from the date on which notice was given in terms of subsection (2)—
  - (a) any registration certificate issued to the person concerned shall be deemed to be cancelled;
  - (b) he shall cease to practise any profession in respect of which he was registered as a practitioner or to perform any act specially pertaining to any profession in respect of which he was registered as a student and which he is under this Act authorized to perform;
  - (c) he shall, in the case of a person who was registered as a practitioner, cease to indicate any profession of his upon his nameplate or in any other manner,until his name has been restored to the register.

- (4) The board 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 (e) of subsection (1) if the person concerned—
- (a) applies on the prescribed form for the restoration of his name to the registrar;
  - (b) pays the prescribed fee; and
  - (c) complies with such other requirements as the board may determine.

## 22. Custody and publication of registers

The registers shall be kept at the office of the registrar, and the board 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 board

## 23. Inquiry by board into alleged misconduct

- (1) The board may institute an inquiry into any complaint, charge or allegation of improper or disgraceful conduct against any practitioner or student and may, on finding the practitioner or student concerned guilty of such conduct, impose any of the penalties referred to in section 24(1): Provided that in the case of a complaint, charge or allegation which forms or is likely to form the subject of criminal proceedings, the board may postpone the holding of an inquiry until those proceedings have been disposed of.
- (2) Whenever the board is in doubt as to whether an inquiry should 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 or student against whom the complaint, charge or allegation has been lodged.

## 24. Penalties for misconduct and procedure at inquiry by board

- (1) Any practitioner or student 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 or student 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, in the case of that practitioner, from practising any profession in respect of which he is registered or, in the case of that student, from performing any act specially pertaining to any profession in respect of which he is registered and which he is under this Act authorized to perform; or
  - (c) removal of his name from the register.
- (2) Any penalty imposed under subsection (1) shall be reduced to writing, signed by the chairman of the board and made known to the practitioner or student concerned, and thereafter the registrar shall cause the name of that practitioner or student and the penalty so imposed to be published in the *Gazette*.
- (3) (a) The board or any committee of the board, where any such committee holds an inquiry under powers delegated to it by the board, may for the purposes of any such inquiry take evidence and may, under the hand of the chairman of the board or the chairman of any such committee or the secretary of the board, 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 board 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 board 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 not exceeding R100: 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.

- (4) The chairman of the board, where the board itself holds any such inquiry, or the chairman of any committee of the board 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 board or the committee concerned, as the case may be, on matters of law, procedure or evidence.
- (5) In any case where the evidence in support of any complaint, charge or allegation is of a documentary nature, and in any other case which the board may think fit, the secretary of the board may act as *pro forma* complainant at the inquiry concerned.
- (6) Any practitioner or student whose conduct is being inquired into in terms of section 23(1), shall at the inquiry concerned be afforded the opportunity of personally or through his legal representative answering the complaint, charge or allegation concerned and being heard in his defence.
- (7) The board 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).

## 25. Postponement of imposition, and suspension of execution, of penalty

- (1) Where the board finds any practitioner or student guilty of conduct referred to in section 24(1), 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) or (c), but order the execution of the penalty 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 board is satisfied that the practitioner or student concerned has observed all the relevant conditions, the board shall inform him that no penalty will be imposed upon him.

- (b) If the execution of a penalty has been suspended in terms of subsection (1)(b) and the board is satisfied that the practitioner or student concerned has observed all the relevant conditions throughout the period of suspension, the board shall inform him that the penalty will not be executed.
- (c) If the execution of a penalty has been suspended in terms of subsection (1)(b) and the practitioner or student concerned fails, to observe any one of the conditions of suspension, the board shall execute the penalty unless that practitioner or student satisfies the board that the non-observance of the condition concerned was due to circumstances beyond his control.

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

- (1) Any practitioner who has under this Act been suspended from the practice of any profession in respect of which he is registered or any former practitioner whose name has been removed from the register by virtue of any penalty imposed under section 24(1)(c) or 32(3), shall be disqualified from practising any profession in respect of which he is or was registered, as the case may be, or from performing any act specially pertaining to any such profession, and any registration certificate issued to him shall be deemed to be cancelled, and he shall cease to indicate any such profession 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) Any student who has under this Act been suspended from performing any act specially pertaining to any profession in respect of which he is registered and which he is under this Act authorized to perform or any former student 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 performing any such act or any act specially pertaining to any profession in respect of which he was registered and which he was under this Act authorized to perform, as the case may be, and any registration certificate issued to him shall be deemed to be cancelled, 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.
- (3) The board may—
  - (a) after the expiry of such period as the board may in each case determine;
  - (b) upon receipt of a written application by a person referred to in subsection (1) or (2) whose name has been removed from the register; and
  - (c) upon payment of the prescribed fees,instruct the registrar to restore the name of that person to the register on such conditions as the board may determine.

## **27. Cognizance by Council of certain conduct of practitioners and students**

- (1) Any practitioner or student who, either before or after registration, has been convicted in the Republic or elsewhere of any offence, may be dealt with by the board in terms of this Chapter if the board 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 or student concerned is registered, is improper or disgraceful, and that practitioner or student 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 or student shall, before any penalty is imposed, be afforded the opportunity of tendering an explanation to the board in mitigation of any such penalty.

- (2) 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 or student, 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 board.

## 28. Penalty for false evidence

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

## 29. Acts or omissions in respect of which disciplinary action may be taken

- (1) The board shall from time to time make rules specifying the acts or omissions in respect of which the board may take disciplinary action under this Chapter: Provided that the powers of the board to inquire into and take any action in connection with any complaint, charge or allegation of improper or disgraceful conduct against any practitioner or student in terms of this Chapter, shall not be limited to the acts or omissions so specified.
- (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 board and if he deems it to be in the public interest, amend or repeal any rule made under subsection (1).

## 30. Restriction in, or suspension from, practice of profession by practitioner or performance of certain acts by student

- (1) When it appears to the board that any practitioner or student—
  - (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, in the case of that practitioner, to practise any profession in respect of which he is registered or, in the case of that student, to perform any act specially pertaining to any profession in respect of which he is registered and which he is under this Act authorized to perform; 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 board shall cause the matter to be investigated and may, if it deems it necessary, hold an inquiry in respect of that practitioner or student *mutatis mutandis* in accordance with the provisions of section 24 and the regulations made under section 38(1)(q).
- (2) If the board, after holding an inquiry under subsection (1), finds that any circumstance referred to in that subsection exists in respect of the practitioner or student concerned, it may by order—
  - (a) suspend that practitioner or student for a specified period from, in the case of that practitioner, practising any profession in respect of which he is registered or, in the case of that student, from performing any act specially pertaining to any profession in respect of which he is registered and which he is under this Act authorized to perform; 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 that student will be entitled to continue with the performance of any such act.
- (3) The board 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 or student who has been suspended under a provision of subsection (2) of this section.
- (5) When the board has made any order under subsection (2), the registrar shall inform the practitioner or student concerned thereof in writing.
- (6) Any practitioner or student 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.

## 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 or herbalist 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,shall be guilty of an offence and on conviction liable to a fine not exceeding R500 or to imprisonment for a period not exceeding six months or to both that fine and that imprisonment.
- (2) The provisions of subsection (1) shall not prohibit—
  - (a) any person exercising a profession to which the provisions of the Pharmacy Act, 1974 ([Act No. 53 of 1974](#)), the Medical, Dental and Supplementary Health Service Professions Act, 1974 ([Act No. 56 of 1974](#)), or the Nursing Act, 1978 ([Act No. 50 of 1978](#)), apply, from performing any act pertaining to his profession, as contemplated in the appropriate Act, which may lawfully be performed by him;
  - (b) a student from performing any act specially pertaining to any profession in respect of which he is registered and which he is under this Act authorized to perform.

#### 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 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.
- (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 or student

A receipt purporting to be issued—

- (a) within the preceding 12 months;
- (b) by or on behalf of the board;
- (c) in respect of annual fees;
- (d) to a person of a name substantially corresponding to that of a practitioner or student 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 or student is registered.

### 34. Proof of certain facts by certificate

When the question arises at any proceedings in a court of law whether or not a particular person is registered as a practitioner or student 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 or student 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 or student in respect of the profession so stated, as the case may be.

### 35. Presumptions

- (1) At any criminal proceedings against any person appearing upon a charge of having performed any act which constitutes an offence under this Act if performed by a person who is not registered as a practitioner in a particular profession, the accused shall be deemed not to have been so registered at the time of the commission of the alleged offence, unless the accused proves the contrary.
- (2) At any criminal proceedings against any person appearing upon a charge of having performed any act which constitutes an offence under this Act if performed by him for gain, that person shall be deemed to have performed that act for gain if he has accepted, whether for himself or for any other person, any valuable consideration in respect of the said act.
- (3) When any person is charged with a contravention of any provision of the 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 board or a committee of the board or any member or officer of the board or of a committee of the board shall not be liable for any act done in good faith under this Act.

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

No remuneration shall be recoverable in respect of any act specially pertaining to any profession if performed by a person who is neither a practitioner in the profession concerned nor a student who is authorized under this Act to perform any such act for gain.

## Chapter 5 General and supplementary provisions

### 38. Regulations

- (1) The Minister may on the recommendation of the board make regulations relating to—
  - (a) the terms of office of the office-bearers of the board;
  - (b) the conduct of the business, and the quorum and procedure, at meetings of the board, the executive committee and other committees of the board, and the manner in which minutes of such meetings shall be kept;
  - (c) the allowances which may be paid to members of the board, the executive committee and other committees of the board, excluding members in the full-time service of the State, when occupied with the affairs of the board;
  - (d) the fees which may be prescribed under any provision of this Act;
  - (e) the manner in which the accounts of the board 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) subject to the provisions of the Medicines and Related Substances Control Act, 1965 ([Act No. 101 of 1965](#))—
    - (i) 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 practice by him of any such profession; and
    - (ii) the requirements with which such remedies shall comply with regard to manufacture, packing and labelling;
  - (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) the acts specially pertaining to a profession which students registered in respect of any such profession may perform for gain or otherwise, and the conditions subject to which they may perform those acts;
  - (p) the employment, including the conditions for such employment, of students by practitioners;
  - (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; and
  - (t) generally, all matters which he considers necessary or expedient in order to give effect to the objects of this Act.
- (2) The Minister may, after consultation with the executive committee of the board and if he deems it to be in the public interest, without the recommendation of the board make regulations relating to any of the matters referred to in subsection (1) or amend or repeal any regulation made under that subsection.
- (3) Any regulation under subsection (1)(l) shall, in every case where any medicine or other substance included in Schedule 1, 2, 3, 4, 5, 6 or 7 of the Medicines and Related Substances Control Act, 1965, is concerned, be made by the Minister after consultation with the Medicines Control Council established by the said Act.

- (4) Any regulation made under this section may prescribe a penalty for any contravention thereof or failure to comply therewith, not exceeding a fine of R100.
- (5) Different regulations may be made under this section in respect of different categories of practitioners or students.
- (6) The board 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.

### 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 or the employment subject to the prescribed conditions of any student by a practitioner.

### 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 or student 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 or by any such student is authorized under this Act, as the case may be.

### 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 Associated Health Service Professions Act, 1982, and shall come into operation on a date determined by the State President by proclamation in the *Gazette*.

**Schedule****Laws repealed**

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