

(4) Registers of medical and dental practitioners in use immediately before the commencement of this Act and every document prepared or issued under the Medical and Dental Act, 1972 (NRC D 91) shall continue in force as if kept, prepared or issued under the corresponding provisions of this Act until provision is otherwise made under this Part.

PART THREE— NURSING AND MIDWIFERY COUNCIL

Establishment of the Council

Establishment of the Nursing and Midwifery Council

53. (1) There is established by this Act a body corporate with perpetual succession to be known as the Nursing and Midwifery Council.

(2) Where there is hindrance to the acquisition of property, the property may be acquired for the Council under the State Property and Contracts Act, 1960 (C. A. 6) or the State Lands Act, 1962 (Act 125) and the costs shall be borne by the Council.

Object of the Council

54. The object of the Council is to secure in the public interest the highest standards of training and practice of nursing and midwifery.

Functions of the Council

55. To achieve the object, the Council shall

- (a) establish standards and provide guidelines for the development of a curriculum for the training of nurse assistants, nurses and midwives;
- (b) register and maintain a register of practitioners;
- (c) exercise disciplinary powers over practitioners;
- (d) prescribe and maintain professional standards and conduct for practitioners;
- (e) in collaboration with appropriate government agencies ensure that nursing and midwifery institutions are accredited;
- (f) determine and implement post-registration, continuing education and continuing professional development programmes for practitioners;
- (g) conduct licencing examination for registration of nurses, midwives and nurse assistants;

- (h) ensure that the education and training of nurses and midwives and other nursing practitioners are carried out at approved educational institutions for efficient nursing and midwifery practice;
- (i) advise the Minister on matters relating to the practice of nursing and midwifery;
- (j) monitor and inspect training institutions and health facilities in collaboration with the Health Facilities Regulatory Agency; and
- (k) perform any other functions that are ancillary to the object of the Council.

Governing body of the Council

56. (1) The governing body of the Council is a Board consisting of
- (a) a chairperson who is a registered nurse or midwife of not less than ten years standing as a practitioner,
 - (b) one representative of registered nurses nominated by the nurses professional associations,
 - (c) one registered midwife nominated by the professional associations,
 - (d) one representative from a nursing school of the universities nominated by the universities from among themselves,
 - (e) one representative of a nursing and midwifery school nominated from nursing and midwifery schools,
 - (f) one representative of the Attorney-General not below the level of Principal State Attorney,
 - (g) one representative of the Ministry of Health not below the rank of a Director,
 - (h) one representative of nurses and midwives professionals within the security agencies,
 - (i) two other persons who are not health professionals, and
 - (j) the Registrar of the Council.

(2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

(3) The Board shall ensure the proper and effective performance of the functions of the Council.

Registration

Registration procedure

57. (1) A person shall not practise nursing or midwifery unless that person is registered as a practitioner in accordance with this Part.

(2) A person seeking registration shall apply to the Registrar in the manner determined by the Board.

(3) The registration is valid for the period determined by the Board.

Qualification for registration

58. (1) A person does not qualify to practise as a nurse, midwife or nurse assistant unless that person

(a) holds a certificate from an institution recognised by the Council, and

(b) passes a licentiate or professional examination conducted by the Council.

(2) A person shall not be registered to practise as a nurse, midwife or nurse assistant unless that person fulfils the requirements determined by the Board.

(3) A person registered by the Board shall pay the prescribed fee.

(4) Despite subsection (1), the Board may register a person to practise as a nurse, midwife or nurse assistant on terms and conditions determined by the Board.

(5) A person who has obtained a higher degree or additional qualification is entitled to have the higher degree or additional qualification inserted in the register in addition to the qualification previously registered.

Registration of foreign trained practitioners

59. (1) A foreign trained nurse, midwife or nurse assistant who has

(a) obtained a recognised primary qualification,

(b) passed or is exempted from the prescribed examination,

shall undergo a period of training in an approved hospital or institution with provisional registration as determined by the Board before being registered under this Part.

(2) A foreign trained nurse, midwife or nurse assistant who satisfies the requirements of subsection 1 (a) and (b) and has already completed training outside the country shall undergo a period of internship training in an approved hospital or institution as determined by the Board.

(3) The Board may exempt a foreign trained nurse, midwife or nurse assistant from internship.

Types of registers

60. (1) The Board shall have three categories of register for the registration of practitioners, namely

- (a) a permanent register for practitioners who intend to practise permanently in the country;
- (b) a temporary register for practitioners who intend to practise for a period of not more than three months; and
- (c) a provisional register for newly qualified and foreign trained practitioners who have passed the prescribed examination.

(2) The Registrar shall keep the registers.

Permanent registration

61. (1) A person may apply to the Registrar for permanent registration after practicing with a provisional registration for a period determined by the Board.

(2) A permanent registration is valid for the calendar year in which it was registered.

(3) The registration shall be renewed by the practitioner before the specified expiry date as determined by the Board.

Temporary registration

62. (1) A temporary registration is valid for a period of not more than three months in a year and is renewable yearly for not more than three years.

(2) A practitioner on a temporary register shall not practise nursing or midwifery except in an approved hospital or institution.

(3) A practitioner who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units and not more than two thousand five hundred penalty units or to a term of imprisonment of not more than four years or to both.

Provisional registration

63. (1) A provisional registration is valid for the period determined by the Board and subject to other conditions determined by the Board.

(2) A person registered on a provisional register shall practise only in a hospital or an institution approved by the Board.

Suspension of registration

64. The Board may suspend the registration of a practitioner where
- (a) an offence or allegation of misconduct in relation to the practitioner is being investigated;
 - (b) a false declaration has been made in an application for a certificate or licence issued to the practitioner; or
 - (c) the practitioner has contravened a provision of this Part.

Cancellation of registration

65. The Board shall cancel the registration of a practitioner on the recommendation of the Disciplinary Committee of the Council where the practitioner

- (a) is convicted of an offence under this Act or the Regulations;
- (b) has lost the qualification on the basis of which the registration was made;
- (c) is sentenced to a term of imprisonment for a criminal offence; or
- (d) fails to comply with the penalty imposed by the Council after due process.

Annual list of registered practitioners

66. The Registrar may publish the list of registered practitioners periodically in the *Gazette* by the 31st of January each year.

Removal and restoration of names from register

67. (1) The Registrar shall, on the recommendations of the Board, remove from the register the name of a person

- (a) who is dead,
- (b) who has been found guilty of professional misconduct by the Disciplinary Committee, or
- (c) who has not paid the prescribed fee.

(2) The name of a person may be restored to the register by the Registrar as directed by the Board.

Representation to the Board and appeal

68. (1) A person whose application for registration is refused by the Registrar may appeal against the refusal to the Board.

(2) Registration shall not be suspended unless the Board has given the practitioner at least thirty days notice of its intention to suspend the registration and has provided the practitioner with an opportunity to make a representation to the Board.

(3) Registration shall not be cancelled unless the Board has given the practitioner at least thirty days notice of its intention to cancel the registration.

(4) A person dissatisfied with a decision of the Board may appeal to the High Court.

Miscellaneous provisions

Entry of premises

69. A person authorised by the Board may enter premises at a reasonable time

- (a) to inspect the registration of a nurse or midwife in a facility or the licence of a nursing facility,
- (b) if that person has reasonable cause to believe that an offence with respect to this Part has been, or is about to be or is being committed on the premises.

Investigation by inspector

70. (1) The inspector may

- (a) require a person on the premises to furnish information in the possession of the person concerning the activities carried on in the premises and the people who carry out the activities,
- (b) inspect the premises and articles found on the premises, and
- (c) take away materials or articles found on the premises.

(2) The inspector shall tender reasonable payment for a material or article taken away under this section.

(3) Despite subsection (2)

- (a) payment shall not be tendered for materials or articles if the inspector reasonably suspects that the material or article is unfit for its purpose due to deterioration, impurity, adulteration or other defect;
- (b) if the material or article is found to be fit, reasonable payment shall be tendered by the inspector for the portion of the material or article that is not returned to its owner in good condition; and
- (c) payment shall not be tendered for a material or article if the inspector anticipates that proceedings for an offence under this Part may be brought in respect of the materials or articles.

(4) The inspector shall tender reasonable payment for the portion of the materials or articles that have been returned to the owner in good condition where proceedings are not commenced within six months.

(5) Where materials or articles are taken under this section, an inventory of the materials or articles shall be made and shall be signed by the senior nursing officer and the inspector and a copy of the inventory shall be given to the senior nursing officer.

(6) The inspector shall seize the materials or articles that constitute an imminent danger to the public health or welfare.

(7) An inspector exercising any power conferred by this Part shall produce on demand a duly authenticated document which shows that the inspector has the authority to exercise the power.

Power of closure

71. (1) An inspector may close premises that uses restricted materials or articles where there are grounds to believe that a health hazard may exist on the premises.

(2) The closure of the premises shall be made with the assistance of the police but where this is not possible, the closure shall be reported to the police within twenty four hours after the closure.

(3) The order in respect of the health hazard may have conditions attached as determined by the Board.

Notice of change of name or address

72. A registered practitioner shall notify the Registrar of a change in name or address within thirty days of the change.

Offences

73. A person who

- (a) makes a false declaration in an application for registration as a practitioner;
 - (b) wilfully and falsely uses a name, title or addition implying a qualification to practice as a practitioner;
 - (c) practices or professes to practice as a practitioner;
 - (d) fails to renew registration and continues to practice;
 - (e) provides unauthorised service in a licensed facility;
 - (f) provides service in an unlicensed facility;
 - (g) fails to conform to practice standards of nursing and mid-wifery;
 - (h) fails to cease practising after suspension, cancellation or revocation of registration;
 - (i) fails to comply with disciplinary sanctions of the Board;
 - (j) engages unqualified persons to practice;
 - (k) wilfully destroys or damages a register kept under this Part;
- or
- (l) contravenes any other provision of this Part

commits an offence and is liable on summary conviction to a fine of not less than five hundred penalty units and not more than five thousand penalty units or to a term of imprisonment of not more than ten years or to both and in the case of a continuing offence to a further fine of twenty penalty units for each day during which the offence continues after written notice has been served on the offender personally by the Council.

Regulations

74. (1) The Minister may, on the advice of the Board, by legislative instrument, make Regulations to

- (a) prescribe the conditions for registration of practitioners;
- (b) prescribe practice standards for practitioners;
- (c) provide for the discipline of practitioners;

- (d) prescribe the fees to be paid under this Part;
- (e) prescribe accreditation standards for practitioners and training institutions; and
- (f) provide for any other matter necessary for the effective implementation of the provisions of this Act.

(2) A person who commits an offence under the Regulations is liable on summary conviction to a fine not exceeding five thousand penalty units or to a term of imprisonment of not more than ten years.

Interpretation

75. In this Part, unless the context otherwise requires,

- “approved hospital or institution” means a hospital or institution approved by the Board;
- “Board” means governing body of the Council;
- “Council” means the Nursing and Midwifery Council;
- “midwife” means a person who has been registered as a midwife under this Part;
- “midwifery” means the supervision, care and education of women on how to live a healthy life during pregnancy, labour, including the care of the newborn baby and the post partum period by a registered midwife;
- “Minister” means the Minister responsible for Health;
- “nurse” means a person who has been registered as a nurse under this Part;
- “nurse assistant” means a person who has been registered under this Part to assist a nurse or midwife;
- “nursing” means the promotion of health, prevention of illness, and care of the physically ill, mentally ill, and persons with a disability in health care and other community settings by a registered nurse;
- “practice” means the profession of nursing or midwifery;
- “practitioner” means a person registered to practice under this Part with qualifications recognised by the Board;

“recognised primary qualification” means accredited basic nursing and midwifery training; and

“Regulations” means the Regulations made under this Act.

Transitional Provisions

76. (1) The rights, assets and liabilities accrued in respect of the properties vested in the Council established under the Nurses and Midwives Act, 1972 (NRCD 117) immediately before the commencement of this Act and the persons employed by the Council shall be transferred to the Nursing and Midwifery Council established under this Act and accordingly proceedings taken by or against the former Council may be continued by or against the Council.

(2) A contract subsisting between the former Council established under the Nurses and Midwives Act, 1972 (NRCD 117) and another person and in effect immediately before the commencement of this Act shall subsist between the Council under this Act and that other person.

Repeal and savings

77. (1) The Nurses and Midwives Act, 1972 (NRCD 117) is hereby repealed.

(2) Despite the repeal, Part III of the Nurses and Midwives Act, 1972 (NRCD 117) related to disciplinary matters shall continue in force as if made under this Act until expressly provided for in the Regulations.

(3) Despite the repeal of the Nurses and Midwives Act, 1972 (NRCD 117), the Regulations, bye-laws, notices, orders, directions, appointments or any other act lawfully made or done under the repealed enactment and in force immediately before the commencement of this Act shall be considered to have been made or done under this Act and shall continue to have effect until reviewed, cancelled or terminated.

(4) Registers of nurses and midwives in use immediately before the commencement of this Act and every document prepared or issued under the Nurses and Midwives Act, 1972 (NRCD 117) shall continue in force as if kept, prepared or issued under the corresponding provisions of this Part.