

## CHAPTER 27:19

### HEALTH PROFESSIONS ACT

*Act 6/2000, 22/2001 (s. 4), 14/2002 (s. 43), 28/2004 (s. 29).*

#### ARRANGEMENT OF SECTIONS

##### PART I

###### PRELIMINARY

###### *Section*

1. Short title and date of commencement.
2. Interpretation.

##### PART II

###### HEALTH PROFESSIONS AUTHORITY

3. Interpretation in Part II.
4. Establishment of Health Professions Authority of Zimbabwe.
5. Functions and powers of Authority.
6. Membership of Authority.
7. Disqualification for membership of Authority.
8. Terms of office and conditions of service of members.
9. Vacation of office by members and filling of vacancies.
10. Notification of membership of Authority.
11. President and vice-president of Authority.
12. Meetings and procedure of Authority.
13. Committees of Authority.
14. Minutes of proceedings of Authority and committees.
15. Funds of Authority.
16. Levies.
17. Financial year of Authority.
18. Accounts of Authority and audit of accounts.
19. Reports and financial statements of Authority.
20. Annual congress.
21. Mediation by Authority in disputes.
22. Appeals to Authority against decisions of councils.
23. Minister may give Authority directions in national interest.

##### PART III

###### SECRETARIAT AND INSPECTORATE OF AUTHORITY

24. Interpretation in Part III.
25. Secretary-General and other members of staff.
26. Inspectors and their powers.
27. Offences in connection with inspectors.

##### PART IV

###### MEDICAL AND DENTAL PRACTITIONERS COUNCIL OF ZIMBABWE

28. Interpretation in Part IV.
29. Establishment of Medical and Dental Practitioners Council of Zimbabwe.
30. Functions and powers of Council.
31. Membership of Council.

## PART V

### ALLIED HEALTH PRACTITIONERS COUNCIL OF ZIMBABWE

32. Interpretation in Part V.
33. Establishment of Allied Health Practitioners Council of Zimbabwe.
34. Functions and powers of Council.
35. Membership of Council.

## PART VI

### NATURAL THERAPISTS COUNCIL OF ZIMBABWE

36. Interpretation in Part VI.
37. Establishment of Natural Therapists Council of Zimbabwe.
38. Functions and powers of Council.
39. Membership of Council.

## PART VII

### NURSES COUNCIL OF ZIMBABWE

40. Interpretation in Part VII.
41. Establishment of Nurses Council of Zimbabwe.
42. Functions and powers of Council.
43. Membership of Council.

## PART VIII

### PHARMACISTS COUNCIL OF ZIMBABWE

44. Interpretation in Part VIII.
45. Establishment of Pharmacists Council of Zimbabwe.
46. Functions and powers of Council.
47. Membership of Council.

## PART IX

### MEDICAL LABORATORY AND CLINICAL SCIENTISTS COUNCIL OF ZIMBABWE

48. Interpretation in Part IX.
49. Establishment of Medical Laboratory and Clinical Scientists Council of Zimbabwe.
50. Functions and powers of Council.
51. Membership of Council.

## PART X

### ENVIRONMENTAL HEALTH PRACTITIONERS COUNCIL OF ZIMBABWE

52. Interpretation in Part X.
53. Establishment of Environmental Health Practitioners Council of Zimbabwe.
54. Functions and powers of Council.
55. Membership of Council.

## PART XI

### MEDICAL REHABILITATION COUNCIL OF ZIMBABWE

56. Interpretation of Part XI.
57. Establishment of Medical Rehabilitation Council of Zimbabwe.
58. Functions and powers of Council.
59. Membership of Council.

## PART XII

### QUALIFICATIONS FOR AND CONDITIONS OF OFFICE OF MEMBERS OF COUNCILS

60. Disqualifications for membership of councils.

61. Terms of office and conditions of service of members of councils.
62. Vacation of office by member of council.
63. Filling of vacancies on councils.
64. Chairmen and vice-chairmen of councils.

### PART XIII

#### MEETINGS, PROCEEDINGS AND COMMITTEES OF COUNCILS

65. Interpretation in Part XIII.
66. Meetings and procedure of councils.
67. Committees of councils.
68. Executive committee.
69. Practice control committee.
70. Disciplinary committee.
71. Education committee.
72. Minutes of proceedings of councils and committees.
73. Establishment of professional board.

### PART XIV

#### REGISTRARS, STAFF AND FINANCES OF COUNCILS

74. Registrars and other staff of councils.
75. Funds, accounts and audit.
76. Annual fees.

### PART XV

#### REGISTERS AND REGISTRATION CERTIFICATES

77. Registers.
78. Specialists registers.
79. Alteration of name of register.
80. Registers to be open for inspection.
81. Duties of registrar and certificates of registration.
82. Offences in connection with registers, etc.
83. Publication of registers.
84. Registers to be evidence.

### PART XVI

#### REGISTRATION AND ERASURE FROM REGISTERS

85. Qualifications for registration to be prescribed.
86. Procedure for registration.
87. Register of vocational trainees.
88. Provisional registration.
89. Registration of additional qualification.
90. Erasures from register.

### PART XVII

#### PRACTISING CERTIFICATES

91. Interpretation in Part XVII.
92. Health practitioners not to practise without practising certificates.
93. Application for practising certificate.
94. Issue, renewal and refusal of practising certificate.
95. Period of validity of practising certificate.
96. Withdrawal of practising certificate.

## PART XVIII

### REGISTRATION OF HEALTH INSTITUTIONS

97. Interpretation in Part XVIII.
98. Application of Part XVIII.
99. Health institutions to be registered.
100. Register of health institutions.
101. Application for registration of health institution.
102. Approval or refusal of application for registration of health institution.
103. Registration of health institution.
104. Duration and renewal of registration of health institution.
105. Cancellation and variation of registration of health institution.
106. Display and return of registration certificate.

## PART XIX

### DISCIPLINE OF HEALTH PRACTITIONERS

107. Function of disciplinary committee.
108. Notice of inquiry and representation at disciplinary proceedings.
109. Taking of evidence by disciplinary committee.
110. Record of disciplinary inquiry.
111. Exercise of disciplinary powers on conviction of offence: court to forward evidence.
112. Executive committee to refer cases to disciplinary committee.
113. Exercise of disciplinary powers.
114. Publication of result of disciplinary proceedings.
115. Council, executive committee and disciplinary committee not to be liable.
116. Improper or disgraceful conduct.
117. Recovery of costs or penalty by council.

## PART XX

### DISABILITIES OF AND OFFENCES BY UNREGISTERED PERSONS

118. Remuneration not recoverable by unregistered persons.
119. Certain certificates invalid if signed by unregistered persons.
120. Proof of registration required before issue of certain licences and permits.
121. Unregistered persons practising as or representing themselves to be medical practitioners.
122. Unregistered persons practising as or representing themselves to be dental practitioners.
123. Dental auxiliaries.
124. Unregistered persons practising as or representing themselves to be pharmacists.
125. Unregistered persons practising as or representing themselves to be dispensing opticians.
126. Unregistered persons practising as registered persons or representing themselves to be members of any other profession or calling in respect of which register is kept.
127. Body corporate not to imply that it is registered.

## PART XXI

### GENERAL

128. Appeal to High Court from decisions of Authority.
129. Exemptions from registration.
130. Health practitioners becoming unfit to practise.
131. Reports on training, qualifications and practice of health practitioners.
132. Grant of diplomas and certificates of competence.
133. Cancellation of diploma or certificate of competence granted by council.
134. Restoration to register.
135. Advertising in relation to health practitioners prohibited.
136. Authority, councils, committees and registrars to observe rules of natural justice.
137. Person suspended from practice deemed to be unregistered.
138. Burden of proof of registration.

139. Personation of registered person or misrepresentation.
140. False statements.
141. Use of designation of Member of Pharmaceutical Society.
142. Notification of change of address.
143. Notification of death.
144. Service of notices.
145. Regulations.
146. Regulations regarding scope of natural therapists' professions or callings.
147. Minister may amend certain references in enactments.
148. Minister may amend First Schedule.

## PART XXII

### TRANSITIONAL PROVISIONS, AMENDMENTS, REPEALS AND SAVINGS

149. Interpretation in Part XXII.
150. Constitution of first councils.
151. Amendment of Acts.
152. Repeals.
153. Temporary continuation of former councils and transitional provisions.
154. Saving of regulations, etc.
155. Saving of registers and registrations.
156. Persons previously not required to register.

FIRST SCHEDULE : Health Professions.

SECOND SCHEDULE: Powers of Authority and Councils.

**To establish a Health Professions Authority of Zimbabwe, a Medical and Dental Practitioners Council of Zimbabwe, an Allied Health Practitioners Council of Zimbabwe, a Natural Therapists Council of Zimbabwe, a Nurses Council of Zimbabwe, a Pharmacists Council of Zimbabwe, a Medical Laboratory and Clinical Scientists Council of Zimbabwe, an Environmental Health Practitioners Council of Zimbabwe and a Medical Rehabilitation Practitioners Council of Zimbabwe, and to provide for the composition and functions of the Authority and those councils; to provide for the registration of persons in health professions and the issue of practising certificates to registered persons; to provide for the exercise of disciplinary powers in relation to registered persons; to provide for disabilities of and offences by unregistered persons who perform acts specially pertaining to health professions in respect of which a register is kept or who represent themselves to be practitioners in any such health profession; to provide for the registration and control of health institutions and the regulation of services provided therein or therefrom; to repeal the Chiropractors Act [*Chapter 27:04*], Medical, Dental and Allied Professions Act [*Chapter 27:08*], Natural Therapists Act [*Chapter 27:09*] and Psychological Practices Act [*Chapter 27:11*]; to amend references to health practitioners, councils and associated matters in other Acts; and to provide for matters connected with or incidental to the foregoing.**

[Long title amended by section 43 of Act 14 of 2002]

[Date of commencement: 2nd April, 2001.]

## PART I

### PRELIMINARY

#### **1 Short title and date of commencement**

This Act may be cited as the Health Professions Act [*Chapter 27:19*].

#### **2 Interpretation**

(1) In this Act—

“Authority” means the Health Professions Authority of Zimbabwe established by section *four*;

[Definition amended by section 43 of Act 14 of 2002]

“council” means a council established by this Act;

“disciplinary committee” means a disciplinary committee established by a council in terms of paragraph (c) of subsection (1) of section *sixty-seven*;

“executive committee” means an executive committee established by a council in terms of paragraph (a) of subsection (1) of section *sixty-seven*;

“health institution” means—

- (a) any hospital, clinic, medical laboratory, consulting room or other premises or part thereof which is used by a health practitioner for any purpose connected with the diagnosis, treatment, mitigation or prevention of any illness, injury or disability or abnormal physical or mental state or the symptoms thereof in human beings; or
- (b) any premises in or on which a pharmacist practises or carries on business as such; or
- (c) any premises in or on which any medicine, as defined in the Medicines and Allied Substances Control Act [*Chapter 15:03*], is manufactured;

“health practitioner” means any person in respect of whose profession or calling a register is kept in terms of this Act;

“health profession” means any profession or calling specified in the First Schedule;

“Minister” means the Minister of Health and Child Welfare or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“practice control committee” means a practice control committee established by a council in terms of paragraph (b) of subsection (1) of section *sixty-seven*;

“president of the Authority” means the president of the Authority elected in terms of subsection (1) of section *eleven*;

“registered” means registered in a register in terms of this Act;

“registrar” means a person appointed as such in terms of section *seventy-four*;

“secretary”, in relation to—

- (a) the Authority, means the Secretary-General;
- (b) a council, means the registrar appointed by that council;

“Secretary-General” means the Secretary-General of the Health Professions Authority appointed in terms of paragraph (a) of subsection (1) of section *twenty-five*.

(2) Any reference in this Act to a council, in relation to any register, registrar or health practitioner, means the council which—

- (a) maintains the register; or
- (b) has appointed the registrar; or
- (c) is responsible for controlling and regulating the health practitioner’s profession or calling;

as the case may be.

(3) Any reference in this Act to a registrar, in relation to a council, a committee of a council or a health practitioner, means the registrar who—

- (a) has been appointed by that council; or
- (b) is responsible for maintaining the register in which the health practitioner is registered;

as the case may be.

(4) This Act shall not be construed so as to limit any person’s freedom to practise and observe his religion or belief, so long as such practice or observation does not involve the person in—

- (a) prescribing or administering any drug; or
- (b) performing any surgical or physical operation; or
- (c) engaging in the practice of psychology; or
- (d) assuming the title of or holding himself out to be a physician, surgeon or medical practitioner.

## PART II

### HEALTH PROFESSIONS AUTHORITY

### 3 Interpretation in Part II

In this Part—

“appointed member” means a member appointed in terms of paragraph (b) of subsection (1) of section *six*;

“member” means a member of the Authority.

#### **4 Establishment of Health Professions Authority of Zimbabwe**

There is hereby established a body, to be known as the Health Professions Authority of Zimbabwe, which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

#### **5 Functions and powers of Authority**

(1) Subject to this Act, the functions of the Authority shall be—

(a) to formulate, develop and implement measures and policies designed to—

- (i) co-ordinate and integrate the functioning and operations of members of the health professions; and
- (ii) ensure the provision and promote the enhancement of efficient professional services by members of the health professions;

and

(b) to liaise and collaborate with all the councils and, without in any way limiting the generality of this paragraph, to advise the councils on matters pertaining to—

- (i) practice control; and
- (ii) discipline; and
- (iii) education, training and examinations; and
- (iv) minimum standards required for any premises in or at which members of any health profession practise their profession or calling;

and

(c) to encourage dialogue between the Government, the Authority and the councils and to implement Government policy on any matter relating to the health professions; and

(d) to convene an annual congress in terms of section *twenty*; and

(e) to administer, as separate accounts, the funds of each council; and

(f) to mediate and settle any disputes arising between councils or between a council and a registered person; and

(g) to hear appeals referred to it in terms of this Act; and

(h) to perform any other function that may be conferred or imposed upon it by or in terms of this Act or any other enactment.

(2) For the better exercise of its functions, the Authority shall have power to do or cause to be done all or any of the things specified in the Second Schedule, either absolutely or conditionally and either solely or jointly with others.

#### **6 Membership of Authority**

(1) The Authority shall consist of—

(a) the chairman of every council; and

(b) the Secretary for the Ministry for which the Minister is responsible; and

(c) six persons, who are not health practitioners, appointed by the Minister as follows—

- (i) one person chosen from a list of names submitted by bodies which the Minister considers are representative of women; and
- (ii) one person chosen from a list of names submitted by bodies which the Minister considers are representative of churches; and
- (iii) one person chosen from a list of names submitted by the Consumer Council of Zimbabwe; and
- (iv) one person chosen from a list of names submitted by the Dean of the Faculty of Medicine of the University of Zimbabwe; and
- (v) a legal practitioner chosen from a list of names submitted by the Law Society of Zimbabwe; and
- (vi) one person chosen from a list of persons submitted by bodies which the Minister considers are representative of disabled persons.

(2) Before making an appointment in terms of paragraph (c) of subsection (1), the Minister shall call upon the body which, whether by itself or in conjunction with other bodies, is required to submit a list in terms of the subparagraph concerned to nominate such number of persons as the Minister may specify.

(3) If a body referred to in subsection (2) fails or refuses to submit a list of the requisite number of nominees within a reasonable time after being called upon to do so, the Minister may appoint any qualified person to be a member of the Authority, and the person so appointed shall be deemed to represent the body concerned.

(4) If a body referred to in subparagraph (iii), (iv) or (v) of paragraph (c) of subsection (1)—

(a) changes its name, this section shall apply, *mutatis mutandis*, in relation to the body as if it had been referred to in the subparagraph concerned by its new name;

- (b) ceases to exist, this section shall apply, *mutatis mutandis*, in relation to such other body as the Minister determines to be the successor of the first-mentioned body or to have equivalent objects and functions to the first-mentioned body.

## **7 Disqualification for membership of Authority**

(1) A person shall not be appointed as a member, and no person shall be qualified to hold office as an appointed member, if—

- (a) he has been adjudged or otherwise declared insolvent or bankrupt in terms of a law in force in any country, and has not been rehabilitated or discharged; or
- (b) he has made an assignment to or arrangement or composition with his creditors in terms of a law in force in any country, and the assignment, arrangement or composition has not been rescinded or set aside; or
- (c) within the period of five years immediately preceding the date of his proposed appointment, he has been sentenced in any country to a term of imprisonment imposed without the option of a fine, whether or not any portion of the sentence has been suspended, and he has not received a free pardon.

(2) Except in the case of a member referred to in paragraph (a) of subsection (1) of section *six*, a person shall not be qualified for appointment to the Authority while he is a member of a council.

## **8 Terms of office and conditions of service of members**

(1) Unless they vacate their office earlier, appointed members shall hold office for a period of five years.

(2) On the expiry of his period of office, an appointed member shall continue to hold office until he has been re-appointed or his successor has been appointed:

Provided that a member shall not hold office in terms of this subsection for more than six months.

(3) A chairman of a council and the Secretary for the Ministry for which the Minister is responsible shall be members for so long as they hold office as chairman of a council or as Secretary of the Ministry, as the case may be.

(4) An appointed member who retires shall be eligible for re-appointment.

(5) Members shall hold office on such terms and conditions, including terms and conditions relating to remuneration and the payment of allowances, as the Minister may fix in consultation with the Authority.

(6) Any remuneration and allowances payable in terms of subsection (5) shall be paid from the funds of the Authority.

## **9 Vacation of office by members and filling of vacancies**

(1) An appointed member shall vacate his office and his office shall become vacant—

- (a) after he gives the Secretary-General such period of notice of intention to resign as may be fixed in his terms and conditions of service or, if no such period has been fixed, after the expiry of such other period of notice as he and the Authority may agree upon; or
- (b) on the date he begins to serve a sentence of imprisonment, whether or not any portion has been suspended, imposed without the option of a fine in any country; or
- (c) if he becomes disqualified in terms of section *seven* to hold office as a member; or
- (d) if the member has ceased to possess any qualification by reason of which he was appointed; or
- (e) if he is required in terms of subsection (2) to vacate his office.

(2) The Authority, with the approval of the Minister, may require an appointed member to vacate his office if the member—

- (a) has been guilty of conduct which renders him unsuitable to continue to hold office as a member; or
- (b) has failed to comply with any term or condition of his office fixed in terms of subsection (5) of section *eight*; or
- (c) is mentally or physically incapable of efficiently exercising his functions as a member; or
- (d) has been absent without the permission of the Authority from three consecutive meetings of the Authority, of which he has had notice, and the Authority is satisfied that there was no just cause for the member's absence.

[Subsection amended by section 43 of Act 14 of 2002]

(3) On the death of, or vacation of office by, an appointed member, the Minister shall appoint a person to fill the vacancy for the unexpired period of the member's term of office:

Provided that, if the period is less than six months, the Minister need not fill the vacancy until the period has expired.

(4) Section *six* shall apply, *mutatis mutandis*, in respect of any appointment made in terms of subsection (3).



## **10 Notification of membership of Authority**

(1) Within twenty-one days of appointing the members referred to in paragraph (c) of subsection (1) of section *six*, the Minister shall notify in the *Gazette* the names of the persons constituting the Authority.

(2) Within twenty-one days of appointing a person in terms of subsection (3) of section *nine* to fill a vacancy on the Authority, the Minister shall notify in the *Gazette* the name of the person so appointed.

## **11 President and vice-president of Authority**

(1) At the first meeting of the Authority, the members of the Authority shall elect one of their number to be president and another to be vice-president of the Authority, and thereafter whenever the office of president or vice-president of the Authority falls vacant the members shall at their next meeting elect one of their number to fill the vacancy:

Provided that the person elected as president of the Authority shall be approved by the Minister before he assumes office.

(2) The vice-president of the Authority shall exercise the functions of the president of the Authority whenever the president is for any reason unable to exercise them or the office of president is vacant.

(3) If the vice-president of the Authority is for any reason unable to exercise his functions, members of the Authority may elect one of their number to act as vice-president.

(4) The President and the vice-president of the Authority may vacate their offices as such while remaining members of the Authority.

(5) Notwithstanding that his period of membership of the Authority has expired, a president or vice-president of the Authority shall continue to hold office as president or vice-president, as the case may be, until his successor has been elected.

## **12 Meetings and procedure of Authority**

(1) The Authority shall hold its first meeting on such date and at such place as the Minister may fix and thereafter shall meet for the dispatch of its business and adjourn, close and otherwise regulate its meetings and procedure, as it thinks fit:

Provided that the Authority shall meet at least three times a year.

(2) Meetings of the Authority shall be convened by the president of the Authority, who shall ensure that at least seven days' notice of any meeting is given to each member:

Provided that the non-receipt of such notice by a member, or the inadvertent failure to give such notice to any member, shall not invalidate the proceedings of the meeting concerned.

(3) The president of the Authority may convene a special meeting of the Authority at any time, and shall do so if not fewer than five members request him to, in which event the meeting shall be convened for a date not sooner than seven days and not later than thirty days after he receives the request.

(4) The president of the Authority or, in his absence, the vice-president shall preside at meetings of the Authority:

Provided that, if the president and vice-president are both absent from any meeting, the members present may elect one of their number to preside at the meeting.

(5) A majority of members shall form a quorum at any meeting of the Authority.

(6) All acts, matters or things authorised or required to be done by the Authority may be decided by a majority vote at a meeting at which a quorum is present.

(7) At all meetings of the Authority, each member present shall have one vote on each question before the Authority and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to a deliberative vote.

(8) The president of the Authority may, after consultation with the appropriate association, if any, invite one or more persons from a profession or calling in respect of which a register is kept and which is not directly represented on the Authority to attend a meeting of the Authority at which matters affecting that profession or calling are to be discussed, and any such person may participate in any discussion at the meeting but shall not be entitled to vote.

(9) Any proposal circulated among all members and agreed to by a majority of them shall be of the same effect as a resolution passed at a duly constituted meeting of the Authority:

Provided that, if a member requires that any such proposal be placed before the Authority, this subsection shall not apply to the proposal.

(10) Subject to this Act, the Authority may make standing orders for the regulation of its proceedings and business and may vary, suspend or revoke any such standing orders.

### **13 Committees of Authority**

(1) For the better exercise of its functions the Authority may establish committees to which it may delegate, either absolutely or subject to conditions, such of its functions as it thinks fit:

Provided that—

- (i) such a delegation shall not prevent the Authority from exercising the functions concerned;
- (ii) the Authority may amend or withdraw any decision of a committee in the exercise of its delegated functions.

(2) Where it has established a committee, the Authority shall appoint at least one member of the Authority to be a member of the committee and shall designate that member or one of those members, as the case may be, to be chairman of the committee.

(3) The Authority may appoint persons who are not members of the Authority to be members of any committee established under subsection (1), and may fix the terms and conditions of office of such persons.

(4) The procedure at meetings of any committee of the Authority shall be fixed by the Authority.

(5) Subsections (4), (5), (6), (7) and (8) of section *twelve* shall apply, *mutatis mutandis*, to committees and their members as they apply to the Authority and its members.

### **14 Minutes of proceedings of Authority and committees**

(1) The Authority shall cause minutes of all proceedings of and decisions taken at its meetings and those of its committees to be entered in books kept for the purpose.

(2) Any minutes referred to in subsection (1) which purport to be signed by the person presiding at the meeting to which the minutes relate or by the chairman of the committee concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings of and decisions taken at the meeting concerned.

### **15 Funds of Authority**

The funds of the Authority shall consist of—

- (a) levies paid to it by councils in terms of section *sixteen*; and
- (b) any moneys that may be payable to it from moneys appropriated for the purpose by Act of Parliament; and
- (c) any other moneys to which the Authority may become entitled, whether by way of fees, loans or otherwise.

### **16 Levies**

Every council shall be liable to pay to the Authority an annual levy at such rate and in such manner as may be prescribed by the Authority.

### **17 Financial year of Authority**

The financial year of the Authority shall be the period of twelve months ending on the 31st December in each year.

### **18 Accounts of Authority and audit of accounts**

(1) The Authority shall keep proper books of account and other records relating thereto in respect of all its activities, undertakings and property, including such particular accounts and records as the Minister may direct.

(2) The Authority shall—

- (a) appoint as auditors one or more persons who are approved by the Minister and registered as public auditors in terms of the Public Accountants and Auditors Act [*Chapter 27:12*]; and
- (b) ensure that its accounts are examined once in each financial year by the auditors appointed in terms of paragraph (a), in accordance with current auditing practices and such directions as the Minister may give the Authority from time to time.

### **19 Reports and financial statements of Authority**

(1) Within six months from the end of each financial year, the Authority shall prepare a report and financial statements in respect of that financial year, and shall forthwith submit a copy of the report and financial statements to the Minister and to each council.

(2) In addition to the annual report referred to in subsection (1), the Authority—

- (a) shall submit to the Minister such other reports as the Minister may require; and
- (b) may submit to the Minister such other reports as the Authority may consider advisable;

in regard to the functions, operations, finances and property of the Authority.

(3) The Authority shall give the Minister all such information relating to its functions, operations, finances and property as the Minister may at any time require.

(4) The Minister—

- (a) shall lay a report submitted to him in terms of subsection (1) before Parliament on one of the fifteen days that Parliament next sits after he received the report;

(b) may lay before Parliament a report submitted to him in terms of subsection (2).

## **20 Annual congress**

(1) In each year, on such date or dates as may be prescribed, the Authority shall convene an annual congress which shall be attended by—

- (a) all the members of the Authority; and
- (b) all the members of every council;

and to which the Authority may invite delegates representing any association, institution or other organisation that the Authority considers appropriate.

(2) An annual congress convened in terms of subsection (1) shall be held in such manner as may be prescribed by the Authority.

(3) The proceedings of the annual congress shall be open to the public and the press except when the congress considers any matter which the participants at the congress resolve should be considered in committee.

## **21 Mediation by Authority in disputes**

(1) If requested to do so by the council or councils concerned, the Authority shall mediate in any dispute arising between councils or between a council and a registered person.

(2) The procedure to be followed in any mediation proceedings in terms of subsection (1) shall be as prescribed by the Authority.

## **22 Appeals to Authority against decisions of councils**

(1) Subject to this Act, any person who is aggrieved by any decision taken in regard to him by a council may appeal against the decision to the Authority within thirty days after being informed of the decision.

(2) An appeal under subsection (1) shall be lodged in such form and manner as may be prescribed by the Authority.

(3) The Authority shall forward a copy of any appeal lodged with it under subsection (1) to the council concerned, and the council shall, within thirty days, provide the Authority with such information, including, in the case of a disciplinary matter, copies of the record of the disciplinary proceedings, as the Authority may require.

(4) After affording both parties a reasonable opportunity to make representations in the matter, the Authority shall consider the appeal and may—

- (a) confirm, vary or set aside the decision of the council concerned; or
- (b) give such decision in the matter as it considers the council concerned ought to have given; or
- (c) refer the matter back to the council concerned for further consideration;

and shall without delay notify the appellant and the council concerned of its decision.

(5) If the Authority receives oral evidence in an appeal under this section, it shall ensure that a record is kept of the evidence.

(6) If in an appeal under this section the Authority confirms the decision of the council concerned, the Authority may order the appellant to pay the expenses of and incidental to the appeal, or any part of those expenses.

(7) The Authority may recover from the appellant concerned, by proceedings in a court of competent jurisdiction, any amount he has been ordered to pay under subsection (6).

## **23 Minister may give Authority directions in national interest**

(1) The Minister, after consultation with the Authority, may give the Authority such written directions of a general policy nature as appear to him to be in the national interest.

(2) The Authority shall, with all due expedition, comply with any directions given to it in terms of subsection (1).

(3) Where the Authority has been given a direction in terms of subsection (1), it shall ensure that the direction and any views it has expressed thereon are set out in its annual report laid before Parliament in terms of subsection (4) of section *nineteen*.

## **PART III**

### **SECRETARIAT AND INSPECTORATE OF AUTHORITY**

## **24 Interpretation in Part III**

In this Part—

“deputy Secretary-General” means the deputy Secretary-General of the Health Professions Authority appointed in terms of paragraph (b) of subsection (1) of section *twenty-five*;

“inspector” means a person appointed as an inspector in terms of subsection (1) of section *twenty-six*.

## **25 Secretary-General and other members of staff**

- (1) Subject to this section, the Authority shall appoint—
- (a) a Secretary-General of the Health Professions Authority; and
  - (b) a deputy Secretary-General of the Health Professions Authority; and
  - (c) such other members of staff as the Authority considers necessary;

who shall be responsible for—

- (i) carrying out any functions on behalf of the Authority which the Authority may assign to them; and
- (ii) administering the affairs and property of the Authority; and
- (iii) providing secretarial services for all councils and assisting the councils in the performance of their functions; and
- (iv) doing anything necessary for the efficient discharge of the functions of the Authority and the councils.

(2) In addition to the functions referred to in subsection (1) and subject to any directions given to him by the Authority, the Secretary-General shall—

- (a) be responsible for managing the Authority's operations and activities and supervising its staff; and
- (b) on the instructions of the president of the Authority or the chairman of any of its committees, convene meetings of the Authority or the committee, as the case may be.

(3) The deputy Secretary-General shall exercise the functions of the Secretary-General during any period that the office of Secretary-General is vacant or the Secretary-General is for any reason unable to act.

(4) The persons referred to in subsection (1) shall be appointed on such terms and conditions as the Authority may fix:

Provided that their remuneration and allowances shall be subject to approval by the Minister.

(5) The president of the Authority may suspend from the performance of his duties any member of staff referred to in paragraph (c) of subsection (1) pending consideration by the Authority of a complaint in relation to that member of staff.

## **26 Inspectors and their powers**

(1) Subject to this section, the Authority shall appoint inspectors who shall be responsible, when required to do so by the Authority or any council, for conducting inspections and reporting thereon for the purpose of enforcing this Act.

(2) Inspectors shall be appointed on such terms and conditions as the Authority may fix:

Provided that their remuneration and allowances shall be subject to approval by the Minister.

(3) The Secretary-General shall be responsible for supervising the activities of inspectors.

(4) The president of the Authority may suspend an inspector from the performance of his duties pending consideration by the Authority of a complaint in relation to the inspector.

(5) The Secretary-General shall ensure that every inspector is provided with a certificate, signed by the president of the Authority, stating that the inspector has been appointed as such in terms of this Act.

(6) For the purposes of this Act, an inspector may—

- (a) at all reasonable times, enter and inspect any health institution for the purpose of ensuring proper compliance with this Act;
- (b) at any time, enter and search any premises where there are reasonable grounds for believing that the entry and search is necessary for the prevention, investigation or detection of an offence under this Act, or for the seizure of any article that is the subject-matter of such an offence or evidence relating to such an offence;
- (c) at any time and at any place, require any person who has or is reasonably believed to have the possession, custody or control of any book, document or thing which—
  - (i) is required to be kept for the purposes of this Act; or
  - (ii) is believed on reasonable grounds to be the subject-matter of an offence under this Act or evidence relating to such an offence;

to produce the book, document or thing and additionally, or alternatively, explain any entry in it;

- (d) examine and make extracts from and copies of any book or document or thing produced in compliance with a requirement in terms of paragraph (c);
- (e) require any person who has or is reasonably believed to have the possession, custody or control of any book or document produced in compliance with a requirement in terms of paragraph (c) to explain any entry in it;
- (f) take possession of any book, document or thing which is believed on reasonable grounds to be the subject-matter of an offence under this Act or evidence relating to such an offence;

Provided that any such book, document or thing shall be retained for so long only as may be necessary for the purposes of any investigation, trial or inquiry.

(7) An inspector shall, at the request of any person affected by the exercise or the performance by such inspector of any power or function under this Act, exhibit to that person the certificate referred to in subsection (5).

(8) Except for the purposes of this Act or when required to do so by a court of law, an inspector shall not disclose any information relating to any inspection acquired in the performance of his duties.

## **27 Offences in connection with inspectors**

Any person who—

(a) falsely holds himself out to be an inspector; or

(b) without just cause—

(i) refuses or fails to answer to the best of his ability any question lawfully put to him by an inspector in the performance of his functions under this Act; or

(ii) refuses or fails to comply to the best of his ability with any lawful requirement of an inspector in the performance of his functions; or

(c) wilfully hinders or obstructs an inspector in the performance of his functions;

shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Section amended by section 4 of Act 22 of 2001]

## **PART IV**

### **MEDICAL AND DENTAL PRACTITIONERS COUNCIL OF ZIMBABWE**

## **28 Interpretation in Part IV**

In this Part—

“Council” means the Medical and Dental Practitioners Council of Zimbabwe established by section *twenty-nine*;

“registered person” means a person registered in any profession or calling specified in Part I of the First Schedule.

## **29 Establishment of Medical and Dental Practitioners Council of Zimbabwe**

(1) There is hereby established a council, to be known as the Medical and Dental Practitioners Council of Zimbabwe, which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

(2) The Council shall represent persons registered in any profession or calling specified in Part I of the First Schedule.

## **30 Functions and powers of Council**

(1) Subject to this Act, the functions of the Council shall be—

(a) to assist in the promotion of the health of the population of Zimbabwe; and

(b) to regulate, control and supervise all matters affecting the training of persons in, and the manner of the exercise of, the professions and callings specified in Part I of the First Schedule; and

(c) to promote liaison in the field of training referred to in paragraph (b), both in Zimbabwe and elsewhere, and to monitor, enforce and improve the standards of such training in Zimbabwe; and

(d) to advise the Minister on any matter affecting any profession or calling specified in Part I of the First Schedule; and

(e) to communicate to the Minister information on matters of public importance acquired by the Council in the performance of its functions under this Act; and

(f) to consider and determine applications for the registration of persons in the professions and callings specified in Part I of the First Schedule, subject to such conditions, whether as to qualifications or otherwise, as may be prescribed by the Council; and

(g) to establish and maintain one or more registers in terms of Part XV for the registration of persons in the professions and callings specified in Part I of the First Schedule; and

(h) to issue practising certificates to registered persons and to cancel or suspend such certificates in terms of this Act; and

(i) to define and enforce ethical practice and discipline among registered persons; and

(j) to encourage co-operation between the Council and other councils established under this Act; and

(k) to take such steps as appear to the Council to be necessary or desirable to advance the standing and effectiveness of the professions or callings specified in Part I of the First Schedule; and

- (l) to present the views of registered persons on national, regional and international issues; and
- (m) to evaluate and monitor the standards of qualifying examinations, courses and training for registered persons; and
- (n) to evaluate any examinations, training courses and qualifications of foreign institutions for the purposes of registration; and
- (o) to perform any other function that may be conferred or imposed upon the Council by or in terms of this Act or any other enactment.

(2) For the better exercise of its functions, the Council shall have power to do or cause to be done all or any of the things specified in the Second Schedule, either absolutely or conditionally and either solely or jointly with others.

### **31 Membership of Council**

(1) The Council shall consist of eighteen members of whom—

- (a) two shall be appointed by the Minister from persons who are employed in his Ministry; and
- (b) two shall be appointed by the Minister from a list of names submitted by the Faculty of Medicine of the University of Zimbabwe; and
- (c) two shall be medical practitioners who practise elsewhere than in a municipal or town area and who are appointed by the Minister from a list of names submitted by an association which is recognised by the Minister as representing such practitioners; and
- (d) three shall be general medical practitioners who are appointed by the Minister from a list of names submitted by an association which is recognised by the Minister as representing such practitioners; and
- (e) the remainder shall be elected by registered persons in the manner prescribed by the Council:

Provided that each of the following classes of practitioners shall be represented among the elected members of the Council—

- (i) surgeons;
- (ii) physicians;
- (iii) anaesthetists;
- (iv) paediatricians;
- (v) pathologists;
- (vi) radiologists;
- (vii) obstetricians and gynaecologists;
- (viii) dental practitioners.

[Paragraph amended by section 43 of act 14 of 2002]

(2) Before making an appointment in terms of paragraph (b), (c) or (d) of subsection (1), the Minister shall call upon—

- (a) the Dean of the Faculty of Medicine of the University of Zimbabwe; or
- (b) the association referred to in paragraph (c) or (d) of subsection (1);

as the case may be, to nominate such number of persons as the Minister may specify.

(3) If a body referred to in subsection (2) fails or refuses to submit a list of the requisite number of nominees within a reasonable time after being called upon to do so, the Minister may appoint any qualified person to be a member of the Council, and the person so appointed shall be deemed to represent the body concerned.

(4) If registered persons refuse or fail for any reason to elect all or any of the members referred to in paragraph (d) of subsection (1), the Minister may appoint any qualified person to serve on the Council in the place of any such member, and a person so appointed shall hold office in all respects as if he had been elected in terms of this section.

## **PART V**

### **ALLIED HEALTH PRACTITIONERS COUNCIL OF ZIMBABWE**

### **32 Interpretation in Part V**

In this Part—

“allied health practitioner” means a person registered in a profession or calling referred to in Part II of the First Schedule;

“Council” means the Allied Health Practitioners Council of Zimbabwe established by section *thirty-three*.

### **33 Establishment of Allied Health Practitioners Council of Zimbabwe**

(1) There is hereby established a council, to be known as the Allied Health Practitioners Council of Zimbabwe, which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

(2) The Council shall represent persons registered in any profession or calling specified in Part II of the First Schedule.

### **34 Functions and powers of Council**

(1) Subject to this Act, the functions of the Council shall be—

- (a) to assist in the promotion of the health of the population of Zimbabwe; and
- (b) to regulate, control and supervise all matters affecting the training of persons in, and the manner of the exercise of, the professions and callings specified in Part II of the First Schedule; and
- (c) to promote liaison in the field of training referred to in paragraph (b), both in Zimbabwe and elsewhere, and to monitor, enforce and improve the standards of such training in Zimbabwe; and
- (d) to advise the Minister on any matter affecting the profession or calling of any allied health practitioner; and
- (e) to communicate to the Minister information on matters of public importance acquired by the Council in the performance of its functions under this Act; and
- (f) to consider and determine applications for the registration of allied health practitioners in accordance with such conditions, whether as to qualifications or otherwise, as may be prescribed by the Council; and
- (g) to establish and maintain one or more registers in terms of Part XV for the registration of allied health practitioners; and
- (h) to issue practising certificates to allied health practitioners and to cancel or suspend such certificates in terms of this Act; and
- (i) to define and enforce ethical practice and discipline among allied health practitioners; and
- (j) to encourage co-operation between the Council and other councils established under this Act; and
- (k) to take such steps as appear to the Council to be necessary or desirable to advance the standing and effectiveness of allied health practitioners in Zimbabwe; and
- (l) to present the views of allied health practitioners on national, regional and international issues; and
- (m) to evaluate and monitor the standards of qualifying examinations, courses and training for allied health practitioners; and
- (n) to evaluate any examinations, training courses and qualifications of foreign institutions for the purposes of the registration of allied health practitioners; and
- (o) to perform any other function that may be conferred or imposed upon the Council by or in terms of this Act or any other enactment.

(2) For the better exercise of its functions, the Council shall have power to do or cause to be done all or any of the things specified in the Second Schedule, either absolutely or conditionally and either solely or jointly with others.

### **35 Membership of Council**

(1) The Council shall consist of ten members of whom—

- (a) two shall be persons appointed by the Minister; and
- (b) the remainder shall be elected by allied health practitioners in the manner prescribed by the Council:

Provided that each of the following classes of practitioners shall be represented among the elected members of the Council—

- (i) clinical social workers; and
- (ii) dieticians; and
- (iii) ECG technicians; and
- (iv) operating theatre technicians; and
- (v) psychologists; and
- (vi) radiographers.

(2) If allied health practitioners refuse or fail for any reason to elect all or any of the members referred to in paragraph (b) of subsection (1), the Minister may appoint any qualified person to serve on the Council in the place of any such member, and a person so appointed shall hold office in all respects as if he had been elected in terms of this section.

## **PART VI**

NATURAL THERAPISTS COUNCIL OF ZIMBABWE

### **36 Interpretation in Part VI**

In this Part—

“Council” means the Natural Therapists Council of Zimbabwe established by section *thirty-seven*;

“natural therapist” means any person registered in any profession or calling referred to in Part III of the First Schedule.

### **37 Establishment of Natural Therapists Council of Zimbabwe**

(1) There is hereby established a council, to be known as the Natural Therapists Council of Zimbabwe, which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

(2) The Council shall represent persons registered in any profession or calling specified in Part III of the First Schedule.

### **38 Functions and powers of Council**

(1) Subject to this Act, the functions of the Council shall be—

- (a) to assist in the promotion of the health of the population of Zimbabwe; and
- (b) to regulate, control and supervise all matters affecting the training of persons in, and the manner of the exercise of, the professions and callings specified in Part III of the First Schedule; and
- (c) to promote liaison in the field of training referred to in paragraph (b), both in Zimbabwe and elsewhere, and to monitor, enforce and improve the standards of such training in Zimbabwe; and
- (d) to advise the Minister on any matter affecting the profession or calling of any natural therapist; and
- (e) to communicate to the Minister information on matters of public importance acquired by the Council in the performance of its functions under this Act; and
- (f) to consider and determine applications for the registration of natural therapists in accordance with such conditions, whether as to qualifications or otherwise, as may be prescribed by the Council; and
- (g) to establish and maintain one or more registers in terms of Part XV for the registration of natural therapists; and
- (h) to issue practising certificates to natural therapists and to cancel or suspend such certificates in terms of this Act; and
- (i) to define and enforce ethical practice and discipline among natural therapists; and
- (j) to encourage co-operation between the Council and other councils established under this Act; and
- (k) to take such steps as appear to the Council to be necessary or desirable to advance the standing and effectiveness of natural therapists in Zimbabwe; and
- (l) to present the views of natural therapists on national, regional and international issues; and
- (m) to evaluate and monitor the standards of qualifying examinations, courses and training for natural therapists; and
- (n) to evaluate any examinations, training courses and qualifications of foreign institutions for the purposes of the registration of natural therapists; and
- (o) to perform any other function that may be conferred or imposed upon the Council by or in terms of this Act or any other enactment.

(2) For the better exercise of its functions, the Council shall have power to do or cause to be done all or any of the things specified in the Second Schedule, either absolutely or conditionally and either solely or jointly with others.

### **39 Membership of Council**

(1) The Council shall consist of ten members of whom—

- (a) four shall be persons appointed by the Minister; and
- (b) two shall be elected, in the manner prescribed by the Council, by registered persons who are entitled to elect members of the Medical and Dental Practitioners Council of Zimbabwe established by Part IV; and
- (c) the remainder shall be elected by natural therapists in the manner prescribed by the Council.

[Paragraph amended by section 43 of Act 14 of 2002]

(2) If registered persons or natural therapists refuse or fail for any reason to elect all or any of the members referred to in paragraph (b) or (c) of subsection (1), the Minister may appoint any qualified person to serve on the Council in the place of any such member, and a person so appointed shall hold office in all respects as if he had been elected in terms of the paragraph concerned.

## **PART VII**

### **NURSES COUNCIL OF ZIMBABWE**

### **40 Interpretation in Part VII**

In this Part—

“Council” means the Nurses Council of Zimbabwe established by section *forty-one*;



“nurse” means any person registered in a profession or calling referred to in Part IV of the First Schedule.

#### **41 Establishment of Nurses Council of Zimbabwe**

(1) There is hereby established a council, to be known as the Nurses Council of Zimbabwe, which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all acts that bodies may by law perform.

(2) The Council shall represent persons registered in any profession or calling specified in Part IV of the First Schedule

#### **42 Functions and powers of Council**

(1) Subject to this Act, the functions of the Council shall be—

- (a) to assist in the promotion of the health of the population of Zimbabwe; and
- (b) to regulate, control and supervise all matters affecting the training of persons in, and the manner of the exercise of, the professions and callings specified in Part IV of the First Schedule; and
- (c) to promote liaison in the field of training referred to in paragraph (b), both in Zimbabwe and elsewhere, and to monitor, enforce and improve the standards of such training in Zimbabwe; and
- (d) to advise the Minister on any matter affecting the profession or calling of any nurse; and
- (e) to communicate to the Minister information on matters of public importance acquired by the Council in the performance of its functions under this Act; and
- (f) to consider and determine applications for the registration of nurses in accordance with such conditions, whether as to qualifications or otherwise, as may be prescribed by the Council; and
- (g) to establish and maintain one or more registers in terms of Part XV for the registration of nurses; and
- (h) to issue practising certificates to nurses and to cancel or suspend such certificates in terms of this Act; and
- (i) to define and enforce ethical practice and discipline among nurses; and
- (j) to encourage co-operation between the Council and other councils established under this Act; and
- (k) to take such steps as appear to the Council to be necessary or desirable to advance the standing and effectiveness of nurses in Zimbabwe; and
- (l) to present the views of nurses on national, regional and international issues; and
- (m) to evaluate and monitor the standards of qualifying examinations, courses and training for nurses; and
- (n) to evaluate any examinations, training courses and qualifications of foreign institutions for the purposes of the registration of nurses; and
- (o) to perform any other function that may be conferred or imposed upon the Council by or in terms of this Act or any other enactment.

(2) For the better exercise of its functions, the Council shall have power to do or cause to be done all or any of the things specified in the Second Schedule, either absolutely or conditionally and either solely or jointly with others.

#### **43 Membership of Council**

(1) The Council shall consist of fifteen members of whom—

- (a) one shall be the person for the time being holding office as Director of Nursing Services in the Ministry responsible for health; and
- (b) four shall be appointed by the Minister;
- (c) the remainder shall be elected by nurses in the manner prescribed by the Council.

(2) If nurses refuse or fail for any reason to elect all or any of the members referred to in paragraph (c) of subsection (1), the Minister may appoint any qualified person to serve on the Council in the place of any such member, and a person so appointed shall hold office in all respects as if he had been elected in terms of that paragraph.

### **PART VIII**

#### **PHARMACISTS COUNCIL OF ZIMBABWE**

#### **44 Interpretation in Part VIII**

In this Part—

“Council” means the Pharmacists Council of Zimbabwe established by section *forty-five*;

“registered person” means a person registered in a profession or calling specified in Part V of the First Schedule.

#### **45 Establishment of Pharmacists Council of Zimbabwe**

(1) There is hereby established a council, to be known as the Pharmacists Council of Zimbabwe, which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

(2) The Council shall represent the persons registered in any profession or calling specified in Part V of the First Schedule.

#### **46 Functions and powers of Council**

(1) Subject to this Act, the functions of the Council shall be—

- (a) to assist in the promotion of the health of the population of Zimbabwe; and
- (b) to promote the practice of the professions or callings specified in Part V of the First Schedule and to foster research into, and develop knowledge, of such professions or callings; and
- (c) to regulate, control and supervise all matters affecting the training of persons in, and the manner of the exercise of, the professions and callings specified in Part V of the First Schedule; and
- (d) to promote liaison in the field of training referred to in paragraph (c), both in Zimbabwe and elsewhere, and to monitor, enforce and improve the standards of such training in Zimbabwe; and
- (e) to advise the Minister on any matter affecting any profession or calling specified in Part V of the First Schedule; and
- (f) to communicate to the Minister information on matters of public importance acquired by the Council in the performance of its functions under this Act; and
- (g) to consider and determine applications for the registration of persons in the professions and callings specified in Part V of the First Schedule, subject to such conditions, whether as to qualifications or otherwise, as may be prescribed by the Council; and
- (h) to establish and maintain one or more registers in terms of Part XV for the registration of persons in the professions and callings specified in Part V of the First Schedule; and
- (i) to issue practising certificates to registered persons and to cancel or suspend such certificates in terms of this Act; and
- (j) to define and enforce ethical practice and discipline among registered persons; and
- (k) to encourage co-operation between the Council and other councils established under this Act; and
- (l) to take such steps as appear to the Council to be necessary or desirable to advance the standing and effectiveness of registered persons in Zimbabwe; and
- (m) to present the views of registered persons on national, regional and international issues; and
- (n) to evaluate and monitor the standards of qualifying examinations, courses and training for registered persons; and
- (o) to evaluate any examinations, training courses and qualifications of foreign institutions for the purposes of registration in any of the professions or callings specified in Part V of the First Schedule; and
- (p) to perform any other function that may be conferred or imposed upon the Council by or in terms of this Act or any other enactment.

(2) For the better exercise of its functions, the Council shall have power to do or cause to be done all or any of the things specified in the Second Schedule, either absolutely or conditionally and either solely or jointly with others.

#### **47 Membership of Council**

(1) The Council shall consist of fourteen members of whom—

- (a) ten shall be persons appointed by the Minister, of whom—
  - (i) one shall be a registered pharmacist who is a member of, or employed by, the Medicines Control Authority of Zimbabwe established in terms of the Medicines and Allied Substances Control Act [*Chapter 15:03*]; and
  - (ii) one shall be a registered pharmacist employed in a hospital; and
  - (iii) two shall be registered pharmacists chosen from a list of names submitted by the Retail Pharmacists Association; and
  - (iv) one shall be a registered pharmacist chosen from a list of names submitted by the Pharmaceutical Manufacturers Association; and
  - (v) one shall be a registered pharmacist chosen from a list of names submitted by the Ethical Drugs Association; and
  - (vi) one shall be a registered pharmacist who is engaged in training pharmacists or pharmacy technicians at an institution of higher learning in Zimbabwe and who is chosen from a list of names submitted by the head of the relevant faculty or department at that institution; and
  - (vii) one shall be a registered legal practitioner chosen from a list of names submitted by the Law Society of Zimbabwe; and
  - (viii) one shall be a person chosen from a list of names submitted by the Consumer Council of Zimbabwe;
- and

- (b) two shall be elected by registered pharmacy technicians in the manner prescribed by the Council; and
- (c) one shall be elected by registered dispensing opticians and optometrists in the manner prescribed by the Council; and
- (d) one shall be elected by registered hearing aid specialists and orthoptists in the manner prescribed by the Council.

(2) Before making an appointment in terms of subparagraph (iii), (iv), (v), (vi), (vii) or (viii) of paragraph (a) of subsection (1), the Minister shall call upon the body which is required to submit a list in terms of the subparagraph concerned to nominate such number of persons as the Minister may specify.

(3) If a body referred to in subsection (2) fails or refuses to submit a list of the requisite number of nominees within a reasonable time after being called upon to do so, the Minister may appoint any qualified person to be a member of the Council, and the person so appointed shall be deemed to represent the body concerned.

(4) If a body referred to in subparagraph (i), (iii), (iv), (v), (vii) or (viii) of paragraph (a) of subsection (1)—

- (a) changes its name, this section shall apply, *mutatis mutandis*, in relation to the body as if it had been referred to in the subparagraph concerned by its new name;
- (b) ceases to exist, this section shall apply, *mutatis mutandis*, in relation to such other body as the Minister determines to be the successor of the first-mentioned body or to have equivalent objects and functions to the first-mentioned body.

(5) If registered persons refuse or fail for any reason to elect all or any of the members referred to in paragraph (b), (c) or (d) of subsection (1), the Minister may appoint any qualified person to serve on the Council in the place of any such member, and a person so appointed shall hold office in all respects as if he had been elected in terms of the paragraph concerned.

## PART IX

### MEDICAL LABORATORY AND CLINICAL SCIENTISTS COUNCIL OF ZIMBABWE

#### **48 Interpretation in Part IX**

In this Part—

“Council” means the Medical Laboratory and Clinical Scientists Council of Zimbabwe established by section *forty-nine*;

“registered person” means a person registered in any profession or calling specified in Part VI of the First Schedule.

#### **49 Establishment of Medical Laboratory and Clinical Scientists Council of Zimbabwe**

(1) There is hereby established a council, to be known as the Medical Laboratory and Clinical Scientists Council of Zimbabwe, which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

(2) The Council shall represent the persons registered in any profession or calling specified in Part VI of the First Schedule.

#### **50 Functions and powers of Council**

(1) Subject to this Act, the functions of the Council shall be—

- (a) to assist in the promotion of the health of the population of Zimbabwe; and
- (b) to regulate, control and supervise all matters affecting the training of persons in, and the manner of the exercise of, the professions and callings specified in Part VI of the First Schedule; and
- (c) to promote liaison in the field of training referred to in paragraph (b), both in Zimbabwe and elsewhere, and to monitor, enforce and improve the standards of such training in Zimbabwe; and
- (d) to advise the Minister on any matter affecting any profession or calling specified in Part VI of the First Schedule; and
- (e) to communicate to the Minister information on matters of public importance acquired by the Council in the performance of its functions under this Act; and
- (f) to consider and determine applications for the registration of persons in the professions and callings specified in Part VI of the First Schedule, subject to such conditions, whether as to qualifications or otherwise, as may be prescribed by the Council; and
- (g) to establish and maintain one or more registers in terms of Part XV for the registration of persons in the professions and callings specified in Part VI of the First Schedule; and
- (h) to issue practising certificates to registered persons and to cancel or suspend such certificates in terms of this Act; and

- (i) to define and enforce ethical practice and discipline among registered persons; and
- (j) to encourage co-operation between the Council and other councils established under this Act; and
- (k) to take such steps as appear to the Council to be necessary or desirable to advance the standing and effectiveness of registered persons;
- (l) to present the views of registered persons on national, regional and international issues; and
- (m) to evaluate and monitor the standards of qualifying examinations, courses and training for registered persons; and
- (n) to evaluate any examinations, training courses and qualifications of foreign institutions for the purposes of registration in the professions and callings specified in Part VI of the First Schedule; and
- (o) to perform any other function that may be conferred or imposed upon the Council by or in terms of this Act or any other enactment.

(2) For the better exercise of its functions, the Council shall have power to do or cause to be done all or any of the things specified in the Second Schedule, either absolutely or conditionally and either solely or jointly with others.

## 51 Membership of Council

- (1) The Council shall consist of fifteen members of whom—
- (a) one shall be appointed by the Minister from persons who are employed in his Ministry; and
  - (b) two shall be appointed by the Minister from a list of names submitted by the Faculty of Medicine of the University of Zimbabwe; and
  - (c) two shall be appointed by the Minister from a list of names submitted by the Department of Medical Laboratory Sciences of the University of Zimbabwe; and
  - (d) two shall be appointed by the Minister from a list of names submitted by the Institute of Medical Laboratory Scientists; and
  - (e) two shall be appointed by the Minister from a list of names submitted by the Clinical Scientists; and
  - (f) the remainder shall be elected by registered persons in the manner prescribed by the Council:

Provided that each of the following disciplines shall be represented among the elected members of the Council—

- (i) clinical biochemistry; and
- (ii) cytology; and
- (iii) haematology; and
- (iv) histopathology; and
- (v) immunology; and
- (vi) medical microbiology..

(2) Before making an appointment in terms of paragraph (b), (c), (d) or (e) of subsection (1), the Minister shall call upon the body which is required to submit a list in terms of the subparagraph concerned to nominate such number of persons as the Minister may specify.

[Subsection amended by section 43 of Act 14 of 2002]

(3) If a body referred to in subsection (2) fails or refuses to submit a list of the requisite number of nominees within a reasonable time after being called upon to do so, the Minister may appoint any qualified person to be a member of the Council, and the person so appointed shall be deemed to represent the body concerned.

(4) If a body referred to in subsection (2)—

- (a) changes its name, this section shall apply, *mutatis mutandis*, in relation to the body as if it had been referred to in the subparagraph concerned by its new name;
- (b) ceases to exist, this section shall apply, *mutatis mutandis*, in relation to such other body as the Minister determines to be the successor of the first-mentioned body or to have equivalent objects and functions to the first-mentioned body.

(5) If registered persons refuse or fail for any reason to elect all or any of the members referred to in paragraph (f) of subsection (1), the Minister may appoint any qualified person to serve on the Council in the place of any such member, and a person so appointed shall hold office in all respects as if he had been elected in terms of this section.

[Subsection amended by section 43 of Act 14 of 2002]

## PART X

### ENVIRONMENTAL HEALTH PRACTITIONERS COUNCIL OF ZIMBABWE

## 52 Interpretation in Part X

In this Part—

“Council” means the Environmental Health Practitioners Council of Zimbabwe established by section *fifty-three*;

“environmental health practitioner” means a person registered in a profession or calling specified in Part VII of the First Schedule.

### **53 Establishment of Environmental Health Practitioners Council of Zimbabwe**

(1) There is hereby established a council, to be known as the Environmental Health Practitioners Council of Zimbabwe, which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

(2) The Council shall represent the persons registered in any profession or calling specified in Part VII of the First Schedule.

### **54 Functions and powers of Council**

(1) Subject to this Act, the functions of the Council shall be—

- (a) to assist in the promotion of the health of the population of Zimbabwe; and
- (b) to regulate, control and supervise all matters affecting the training of persons in, and the manner of the exercise of, the profession or calling of any environmental health practitioner; and
- (c) to promote liaison in the field of training referred to in paragraph (b), both in Zimbabwe and elsewhere, and to monitor, enforce and improve the standards of such training in Zimbabwe; and
- (d) to advise the Minister on any matter affecting the profession or calling of any environmental health practitioner; and
- (e) to communicate to the Minister information on matters of public importance acquired by the Council in the performance of its functions under this Act; and
- (f) to consider and determine applications for the registration of environmental health practitioners in accordance with such conditions, whether as to qualifications or otherwise, as may be prescribed by the Council; and
- (g) to establish and maintain one or more registers in terms of Part XV for the registration of environmental health practitioners; and
- (h) to issue practising certificates to environmental health practitioners and to cancel or suspend such certificates in terms of this Act; and
- (i) to define and enforce ethical practice and discipline among environmental health practitioners; and
- (j) to encourage co-operation between the Council and other councils established under this Act; and
- (k) to take such steps as appear to the Council to be necessary or desirable to advance the standing and effectiveness of environmental health practitioners in Zimbabwe; and
- (l) to present the views of environmental health practitioners on national, regional and international issues; and
- (m) to evaluate and monitor the standards of qualifying examinations, courses and training for environmental health practitioners; and
- (n) to evaluate any examinations, training courses and qualifications of foreign institutions for the purposes of the registration of environmental health practitioners; and
- (o) to perform any other function that may be conferred or imposed upon the Council by or in terms of this Act or any other enactment.

(2) For the better exercise of its functions, the Council shall have power to do or cause to be done all or any of the things specified in the Second Schedule, either absolutely or conditionally and either solely or jointly with others.

### **55 Membership of Council**

(1) The Council shall consist of seven members of whom—

- (a) two shall be appointed by the Minister; and
- (b) five shall be elected by the environmental health practitioners in the manner prescribed by the Council.

(2) Of the persons elected in terms of subsection (1)—

- (a) one shall be a registered meat and other foods inspector; and
- (b) two shall be registered environmental health officers, one of whom shall be employed by a local authority; and
- (c) two shall be environmental health technicians, one of whom shall be employed by a local authority.

(3) If environmental health practitioners refuse or fail for any reason to elect all or any of the members referred to in subsection (2), the Minister may appoint any qualified person to serve on the Council in the place of any such member, and a person so appointed shall hold office in all respects as if he had been elected in terms of this section.

## PART XI

### MEDICAL REHABILITATION COUNCIL OF ZIMBABWE

#### 56 Interpretation in Part XI

In this Part—

“Council” means the Medical Rehabilitation Council of Zimbabwe established by section *fifty-seven*;

“medical rehabilitation practitioner” means a person registered in a profession or calling specified in Part VIII of the First Schedule.

#### 57 Establishment of Medical Rehabilitation Council of Zimbabwe

(1) There is hereby established a council, to be known as the Medical Rehabilitation Practitioners Council of Zimbabwe, which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

[Subsection amended by section 43 of Act 14 of 2002]

(2) The Council shall represent the persons registered in any profession or calling specified in Part VIII of the First Schedule.

#### 58 Functions and powers of Council

(1) Subject to this Act, the functions of the Council shall be—

- (a) to assist in the promotion of the health of the population of Zimbabwe; and
- (b) to regulate, control and supervise all matters affecting the training of persons in, and the manner of the exercise of, the professions and callings specified in Part VIII of the First Schedule; and
- (c) to promote liaison in the field of training referred to in paragraph (b), both in Zimbabwe and elsewhere, and to monitor, enforce and improve the standards of such training in Zimbabwe; and
- (d) to advise the Minister on any matter affecting the profession or calling of any medical rehabilitation practitioner; and
- (e) to communicate to the Minister information on matters of public importance acquired by the council in the performance of its functions under this Act; and
- (f) to consider and determine applications for the registration of medical rehabilitation practitioners in accordance with such conditions, whether as to qualifications or otherwise, as may be prescribed by the Council; and
- (g) to establish and maintain one or more registers in terms of Part XV for the registration of medical rehabilitation practitioners; and
- (h) to issue practising certificates to medical rehabilitation practitioners and to cancel or suspend such certificates in terms of this Act; and
- (i) to define and enforce ethical practice and discipline among medical rehabilitation practitioners; and
- (j) to encourage co-operation between the Council and other councils established under this Act; and
- (k) to take such steps as appear to the Council to be necessary or desirable to advance the standing and effectiveness of medical rehabilitation practitioners in Zimbabwe; and
- (l) to present the views of medical rehabilitation practitioners on national, regional and international issues; and
- (m) to evaluate and monitor the standards of qualifying examinations, courses and training for medical rehabilitation practitioners; and
- (n) to evaluate any examinations, training courses and qualifications of foreign institutions for the purposes of the registration of medical rehabilitation practitioners; and
- (o) to perform any other function that may be conferred or imposed upon the Council by or in terms of this Act or any other enactment.

(2) For the better exercise of its functions, the Council shall have power to do or cause to be done all or any of the things specified in the Second Schedule, either absolutely or conditionally and either solely or jointly with others.

#### 59 Membership of Council

(1) The Council shall consist of seven members of whom—

- (a) two shall be appointed by the Minister; and
- (b) five shall be elected by medical rehabilitation practitioners in the manner prescribed by the Council.

(2) Of the members elected in terms of subsection (1)—

- (a) one shall be a registered physiotherapist; and
- (b) one shall be a registered occupational therapist; and
- (c) one shall be a registered speech therapist; and

(d) one shall be a registered prosthetist, orthotist or podiatrist; and

(e) one shall be a registered rehabilitation technician or a registered orthopaedic technician.

(3) If medical rehabilitation practitioners refuse or fail for any reason to elect all or any of the members referred to in subsection (2), the Minister may appoint any qualified person to serve on the Council in the place of any such member, and a person so appointed shall hold office in all respects as if he had been elected in terms of this section.

## PART XII

### QUALIFICATIONS FOR AND CONDITIONS OF OFFICE OF MEMBERS OF COUNCILS

#### 60 Disqualifications for membership of councils

A person shall not be appointed or elected as a member of a council, and no person shall be qualified to hold office as a member, if—

(a) he has been adjudged or otherwise declared insolvent or bankrupt in terms of a law in force in any country, and he has not been rehabilitated or discharged; or

(b) he has made an assignment to or arrangement or composition with his creditors in terms of a law in force in any country, and the assignment, arrangement or composition has not been rescinded or set aside; or

(c) his registration is cancelled or he is suspended from practice following disciplinary action in terms of this Act; or

(e) within the period of five years immediately preceding the date of his proposed appointment or election, he has been sentenced in any country to a term of imprisonment imposed without the option of a fine, whether or not any portion of the sentence has been suspended, and he had not received a free pardon.

#### 61 Terms of office and conditions of service of members of councils

(1) Subject to section *sixty-two*, unless they vacate their office earlier, members of a council shall hold office for five years from the date of their appointment or election, as the case may be:

Provided that, of the persons first appointed or elected, as the case may be, to any council, half the members, to be decided by the drawing of lots, shall hold office for three years from the date of their appointment or election, as the case may be.

(2) On the expiry of his period of office, a member of a council shall continue to hold office until he has been re-appointed or re-elected or his successor has been appointed or elected, as the case may be:

Provided that a member shall not hold office in terms of this subsection for more than six months.

(3) A member of a council who resigns or retires shall be eligible for reappointment or re-election to the council.

(4) Members of councils shall hold office on such terms and conditions, including terms and conditions relating to remuneration and the payment of allowances, as the council concerned may fix with the approval of the Minister.

(5) Any remuneration and allowances payable in terms of subsection (4) shall be paid from the funds of the council concerned.

#### 62 Vacation of office by member of council

(1) A member of a council shall vacate his office and his office shall become vacant—

(a) after he gives the secretary of the council concerned such period of notice of his intention to resign as may be fixed in his terms and conditions of service or, if no such period has been fixed, one month after the date on which he gives such notice or after the expiry of such other period of notice as he and the council may agree upon; or

(b) on the date he begins to serve a sentence of imprisonment, whether or not any portion has been suspended, imposed without the option of a fine in any country; or

(c) if he becomes disqualified in terms of section *sixty* to hold office as a member; or

(d) if he is required in terms of subsection (2) to vacate his office.

(2) A council, with the approval of the Minister, may require a member to vacate his office if the member—

(a) has been guilty of conduct which renders him unsuitable to continue to hold office as a member; or

(b) has failed to comply with any term or condition of his office fixed in terms of subsection (4) of section *sixty-one*; or

(c) is mentally or physically incapable of efficiently exercising his functions as a member; or

(d) has been absent without the permission of the council from three consecutive meetings of the council, of which he has had notice, and the council is satisfied that there was no just cause for the member's absence.

#### 63 Filling of vacancies on councils

On the death of or the vacation of office by a member, a qualified person shall be appointed or elected, as the case may be, to fill the vacancy for the unexpired period of the member's term of office:

Provided that, if the unexpired period of the member's term of office is less than six months, it shall not be necessary to fill the vacancy until the period has expired.

#### **64 Chairmen and vice-chairmen of councils**

(1) At the first meeting of any council, its members shall elect one of their number to be chairman and another to be vice-chairman of the council, and thereafter whenever the office of chairman or vice-chairman of the council falls vacant the members shall at their next meeting elect one of their number to fill the vacancy.

(2) The vice-chairman of a council shall exercise the chairman's functions whenever the chairman is unable to do so or the office of chairman is vacant.

(3) If the vice-chairman of a council is for any reason unable to exercise his functions, members of the council may elect one of their number to act as vice-chairman.

(4) A chairman and vice-chairman of a council may vacate their offices as such while remaining members of the council.

(5) Notwithstanding that his period of membership of the council has expired, a chairman or vice-chairman of a council shall continue to hold office as chairman or vice-chairman, as the case may be, until his successor has been elected.

### **PART XIII**

#### **MEETINGS, PROCEEDINGS AND COMMITTEES OF COUNCILS**

#### **65 Interpretation in Part XIII**

In this Part—

“education committee” means an education committee established by a council in terms of paragraph (d) of subsection (1) of section *sixty-seven*.

#### **66 Meetings and procedure of councils**

(1) A council shall hold its first meeting on such date and at such place as the Minister may fix and thereafter shall meet at such places and times for the dispatch of its business, and adjourn, close and otherwise regulate its meetings and procedure, as it thinks fit:

Provided that a council shall meet at least four times a year.

(2) Meetings of a council shall be convened by the chairman of the council, who shall ensure that at least seven days' notice of any meeting is given to each member:

Provided that the non-receipt of such notice by a member, or the inadvertent failure to give such notice to any member, shall not invalidate the proceedings of the meeting concerned.

(3) The chairman of a council may convene a special meeting of the council at any time, and shall do so if not fewer than four members request him to do so, in which event the meeting shall be convened for a date not sooner than seven days and not later than twenty-one days after he receives the request.

(4) The chairman or, in his absence, the vice-chairman of a council shall preside at meetings of the council:

Provided that, if the chairman and vice-chairman are both absent from any meeting, the members present may elect one of their number to preside at the meeting.

(5) A majority of members shall form a quorum at any meeting of a council.

(6) All acts, matters or things authorised or required to be done by a council may be decided by a majority vote at a meeting of a council at which a quorum is present.

(7) At all meetings of a council, each member present shall have one vote on each question before the council and, in the event of an equality of votes, the chairman shall have a casting vote in addition to a deliberative vote.

(8) If a member requires any matter which is being considered by a meeting of a council to be deferred for consideration by any committee of the council, that matter shall stand deferred to the next ordinary meeting of the council, when a decision on the matter may be taken.

(9) Any proposal circulated among all members and agreed to by a majority of them shall be of the same effect as a resolution passed at a duly constituted meeting of the council concerned:

Provided that, if a member requires that any such proposal be placed before the council, this subsection shall not apply to the proposal.

(10) Subject to this Act, a council may make standing orders for the regulation of its proceedings and business or the proceedings and business of any of its committees, and may vary, suspend or revoke any such standing orders.

#### **67 Committees of councils**

(1) For the better exercise of its functions, every council—



- (a) shall establish an executive committee, the function of which shall be to exercise the council's functions between council meetings:

Provided that—

- (i) except in so far as the council otherwise directs, an executive committee shall not have power to set aside or vary any decision of the council;
- (ii) any action taken by an executive committee shall be reviewed by the council at its next meeting after the action is taken;

and

- (b) shall establish a practice control committee, the function of which shall be to exercise the functions conferred or imposed upon it in terms of Parts XVII and XVIII; and
- (c) shall establish a disciplinary committee, the function of which shall be to exercise disciplinary powers in accordance with Part XIX;
- (d) may, subject to section *seventy-one*, establish such education committees as it considers necessary for the purpose of exercising the functions specified in that section and, generally supervising the training of health practitioners whom the council represents; and
- (e) may establish any other committees that it considers necessary or desirable, and may vest in any committee so established such of the council's functions as the council thinks fit:

Provided that—

- (i) a council shall not vest in such a committee the power which is conferred upon it in terms of section *eighty-eight* to cancel a person's provisional registration;
- (ii) the vesting or imposition of any such functions in a committee shall not divest a council of those functions;
- (iii) a council may amend or withdraw any decision of any such committee in the exercise of those functions;
- (iv) except as is otherwise expressly provided in this Act, no such committee shall exercise any disciplinary powers in relation to a person registered under this Act.

(2) Meetings of a committee of a council may be convened at any time by the chairman of the council or by the chairman of the committee concerned.

(3) Subject to sections *sixty-eight*, *sixty-nine* and *seventy*, the quorum and procedure at any meeting of a committee of a council shall be fixed by the council.

(4) Subject to this Act, any person who is aggrieved by any decision taken in regard to him by a committee of a council may appeal against the decision to the council within thirty days after being informed of the decision.

(5) An appeal under subsection (4) shall be lodged in such form and manner as may be prescribed by the council.

## **68 Executive committee**

(1) A council's executive committee shall consist of—

- (a) the chairman of the council, who shall be chairman of the committee; and
- (b) the vice-chairman of the council; and
- (c) a bare majority of the other members of the council, who shall be appointed to the committee by the council in such manner as the council may prescribe.

(2) A council's executive committee shall meet at least four times in each year.

(3) If at a meeting of an executive committee the chairman and vice-chairman are both absent, the members present shall elect one of their number to preside at that meeting.

(4) All acts, matters or things authorised or required to be done by an executive committee shall be decided by a majority vote at a meeting of the committee at which a quorum is present.

(5) At all meetings of an executive committee, each member present shall have one vote on every question before the committee and, in the event of an equality of votes, the chairman shall have a casting vote in addition to a deliberative vote.

(6) The chairman of the council concerned shall give notice of every meeting of an executive committee to the Minister, who may attend the meeting.

(7) Minutes of every meeting of a council's executive committee shall be submitted to the Minister by the chairman of the council not later than one month after the meeting was held.

(8) The Minister may at any time direct the chairman of a council to convene a meeting of the council's executive committee for the purpose of dealing with any matter that is specified by the Minister and relates to the council's functions, and the chairman shall comply with any such direction within twenty-one days after receiving it.

## 69 Practice control committee

(1) A council's practice control committee shall consist of—

- (a) the chairman of the council, who shall be chairman of the committee; and
- (b) at least eight persons appointed by the council, of whom—
  - (i) the majority shall be members of the council; and
  - (ii) at least three shall be members of the Health Service designated by the Secretary of the Ministry responsible for health; and

[Subparagraph substituted by section 29 of Act 28 of 2004]

(iii) one shall be a registered legal practitioner of at least five years' standing.

(2) Members of a council's practice control committee referred to in paragraph (b) of subsection (1) shall serve for such period, not exceeding five years, as may be fixed in each case by the council at the time of their appointment:

Provided that—

- (i) any such member shall be eligible for re-appointment;
- (ii) the council may, without assigning reasons, require any such member to retire from the practice control committee if at any time the council considers it necessary or desirable for him to do so.

(3) If at a meeting of a practice control committee the chairman is absent, the members present shall elect one of their number to preside at the meeting.

(4) A majority of members shall form a quorum at a meeting of a practice control committee.

(5) All acts, matters or things authorised or required to be done by a practice control committee shall be decided by a majority vote at a meeting of the practice control committee at which a quorum is present.

(6) At all meetings of a practice control committee, each member shall have one vote and, in the event of an equality of votes, the chairman shall have a casting vote in addition to a deliberative vote.

(7) Subject to this section, a practice control committee shall meet and regulate its business as it thinks fit.

(8) For the purpose of carrying out its functions, a practice control committee shall have power—

- (a) if it is reasonably necessary for the detection of any offence in terms of Part XVII or XVIII, to investigate or cause an investigation of any health institution at all reasonable times; and
- (b) for the purposes of an investigation in terms of paragraph (a), to employ the services of inspectors appointed in terms of section *twenty-six*, who may exercise any of their powers in terms of that section; and
- (c) to call for a report, whether on oath or otherwise, from any registered person in respect of any matter arising from the exercise of its functions.

(9) Any person who hinders, obstructs or makes any false representation to a practice control committee or any inspector employed by it shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

## 70 Disciplinary committee

(1) A council's disciplinary committee shall consist of—

- (a) the chairman of the council, who shall be chairman of the committee:

Provided that, if in any particular case the chairman of the council considers that he should not be chairman of the committee, he shall appoint another member of the council to be the chairman for that particular case; and

- (b) not less than two and not more than four other persons who shall be—
  - (i) specially appointed to the committee for the particular inquiry by the chairman of the council in consultation with the council's executive committee; and
  - (ii) either members of the council concerned or registered on the same register as the person in respect of whom the inquiry is to be held:

Provided that at least one of the persons so appointed shall be registered on the same register as the person in respect of whom the inquiry is to be held.

(2) If a registered legal practitioner is a member of the council concerned, he shall be present at any inquiry held by a disciplinary committee in order to advise the committee on matters of law, procedure and evidence:

Provided that, if the legal practitioner is unable to be present at an inquiry or if there is no legal practitioner on the council, the chairman of the council, in consultation with the executive committee or with such members thereof as he is able to consult in the time available, shall appoint some other registered legal practitioner to be present at the inquiry to advise on matters of law, procedure and evidence.

(3) At any meeting of a disciplinary committee, the chairman and two other members shall form a quorum.

(4) All acts, matters or things authorised or required to be done by a disciplinary committee shall be decided by a majority vote at a meeting of the disciplinary committee at which a quorum is present.

(5) At all meetings of a disciplinary committee, each member present shall have one vote on any question before the disciplinary committee and, in the event of an equality of votes, the chairman shall have a casting vote in addition to a deliberative vote.

(6) Except as otherwise expressly provided in Part XIX, a disciplinary committee may regulate its procedure in such manner as it thinks fit.

(7) Whenever an executive committee refers a matter to a disciplinary committee, the secretary of the council concerned shall advise the Minister of the reference, specifying the person who is the subject of the inquiry concerned and the nature of the complaint.

(8) Whenever a disciplinary committee has completed an inquiry, the secretary of the council concerned shall advise the Minister of the result of the inquiry and of the action, if any, taken by the disciplinary committee.

## **71 Education committee**

(1) On the establishment of an education committee in terms of paragraph (d) of subsection (1) of section *sixty-seven*, a council—

(a) shall appoint to that committee at least one member of the council, who shall be the chairman of the committee; and

(b) may appoint to that committee persons who are not members of the council.

(2) Subject to any general directions given to it by the council concerned, the functions of an education committee shall be—

(a) to supervise the education and training of such classes of health practitioners as the council may specify; and

(b) to advise the council on any matter concerning the education or training of the classes of health practitioners referred to in paragraph (a); and

(c) to satisfy itself and the council that in every teaching institution the curricula for the education and training of the classes of health practitioners referred to in paragraph (a) are such that graduates will have sufficient basic knowledge to practise their profession or calling; and

(d) to satisfy itself and the council that the education and training given to persons training to become health practitioners of the classes referred to in paragraph (a), and the facilities provided to enable them to gain experience in their profession or calling, are appropriate and adequate; and

(e) to perform such other functions relating to the education and training of the classes of health practitioners referred to in paragraph (a) as may be vested in the committee by the council.

(3) For the purpose of carrying out its functions, an education committee may, subject to the general direction and guidance of the council concerned—

(a) visit any university, hospital or other institution or premises where instruction is given to or examinations conducted for students who intend to apply for registration as health practitioners of a class referred to in paragraph (a) of subsection (2); and

(b) observe and monitor any instruction or examinations such as are referred to in paragraph (a); and

(c) on behalf of the council, engage the services of inspectors appointed in terms of section *twenty-six* to perform any function referred to in paragraph (a) or (b); and

(d) to submit full written reports to the council on the courses and curricula followed at and examinations conducted by any university, hospital or other institution or premises where instruction is given to or examinations are held for students who intend to apply for registration as health practitioners of a class referred to in paragraph (a) of subsection (2).

[Subsection amended by section 43 of Act 14 of 2002]

## **72 Minutes of proceedings of councils and committees**

(1) A council shall cause minutes of all proceedings of and decisions taken at all meetings of the council and of its committees to be entered in books kept for the purpose.

(2) Any minutes referred to in subsection (1) which purport to be signed by the person presiding at the meeting to which the minutes relate, or by the person presiding at the next following meeting of the council or committee concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings of, and decisions taken at, the meeting concerned.

(3) The minutes of any meeting of a council shall be made available to any registered person at all reasonable times at the office of the council:

Provided that this subsection shall not be construed as entitling registered persons to peruse the records of—

- (a) a meeting of an executive committee, a disciplinary committee or any other committee of a council; or
- (b) a council, where the council has resolved that it shall sit in committee.

### **73 Establishment of professional board**

(1) If a council considers it necessary in the public interest that a professional board be established in respect of any profession or calling to which this Act applies to improve the standard of professional education and conduct among members of that profession or calling, it may, subject to subsection (2), recommend to the Minister that a professional board be established in respect of such profession or calling.

(2) Before making a recommendation in terms of subsection (1), the council shall consult any body of persons which is representative of the profession or calling concerned.

[Subsection amended by section 43 of Act 14 of 2002]

(3) After having received a recommendation referred to in subsection (1), the Minister may, by notice in the Gazette, establish a professional board in respect of the profession or calling to which the recommendation relates.

(4) The membership, election and term of office of members and the functions of a professional board shall be as prescribed by the council concerned.

(5) In addition to performing any functions prescribed under subsection (4), a professional board established in terms of this section shall report to the council concerned on any matter affecting the profession in respect of which the board has been established and on any other matter referred to it by the council.

(6) Whenever a report referred to in subsection (5) is considered by the council, the chairman of the professional board concerned shall be present at the meeting at which the report is considered by the council and shall have—

- (a) the right to address the council concerning any matter dealt with in the report; and
- (b) the rights and duties of a member of the council attending the meeting.

(7) A professional board established in terms of this section may make representations to the council concerned for the making, amendment or repeal of any regulations or rules which apply to the professional board or to the profession or calling in respect of which the professional board was established.

## **PART XIV**

### **REGISTRARS, STAFF AND FINANCES OF COUNCILS**

### **74 Registrars and other staff of councils**

(1) Subject to this section, every council—

- (a) shall appoint a registrar; and
- (b) may appoint a deputy registrar and such other employees as it considers to be necessary or desirable.

(2) The terms and conditions of service of employees referred to in subsection (1) shall be determined, subject to any other law, by the council concerned:

Provided that their remuneration and allowances, which shall be paid from the council's funds, shall be subject to approval by the Minister.

(3) A registrar, after consultation with the chairman of the council concerned, may engage temporary employees for the council on such terms and conditions as he considers appropriate:

Provided that he shall report the matter to the council at its next meeting after he has engaged any such employee.

(4) A registrar shall be the secretary of the council concerned and of every committee of the council and, on the instructions of the chairman of the council or the chairman of any committee, shall convene a meeting of the council or committee, as the case may be.

(5) A deputy registrar shall exercise the registrar's functions, or such of them as the chairman of the council concerned may designate, whenever the office of the registrar is vacant or the registrar is for any reason unable to act.

(6) The chairman of a council may suspend any employee, including the registrar, from the performance of his duties pending consideration by the council of a complaint in relation to the employee.

### **75 Funds, accounts and audit**

(1) The funds of a council shall consist of—

- (a) all fees paid in terms of section *seventy-six*; and
- (b) all application fees paid in terms of Part XVI and
- (c) any moneys that may be payable to the council from moneys appropriated for the purpose by Act of Parliament; and
- (d) any penalties or costs payable to the council in terms of Part XIX; and
- (e) any other moneys and assets that may vest in or accrue to the council, whether in the exercise of its functions or otherwise.

(2) All moneys and assets accruing to a council shall be administered by the Secretary-General and other members of staff referred to in section *twenty-five*, whose responsibility it shall be to keep proper accounts and other records relating to the funds of each council.

(3) The accounts of each council shall be audited annually by one or more auditors who are registered in terms of the Public Accountants and Auditors Act [*Chapter 27:12*] and are appointed by the Authority in consultation with the council concerned.

## **76 Annual fees**

(1) A council may prescribe the fees payable annually to the council by all classes or any particular class of persons registered in a register maintained by the council.

(2) In prescribing the fees referred to in subsection (1), a council—

- (a) shall specify the date on which the fees shall be payable; and
- (b) may prescribe different fees for different classes of registered persons.

## **PART XV**

### **REGISTERS AND REGISTRATION CERTIFICATES**

## **77 Registers**

(1) Subject to this section, every council shall establish and maintain one or more registers, as it considers necessary, for the registration of persons whose profession or calling is subject to regulation by the council.

(2) Subject to subsections (5) and (6), a council may, with the approval of the Minister, establish and maintain registers of persons whose profession or calling is not specified in the First Schedule and who have acquired special training and knowledge in matters relating to the prevention or treatment of physical or mental defects or diseases in man.

(3) Where persons are required, after acquiring any qualification, to undergo a period of training before they are entitled to be registered as health practitioners, the council concerned shall establish and keep a register of persons who are undergoing such training.

(4) There shall be entered in any register established in terms of this section, to the extent appropriate—

- (a) the name of each person whom the council concerned has directed shall be registered; and
- (b) the fact that a practising certificate has been issued to a registered person, or that any such practising certificate has ceased to be valid; and
- (c) particulars of the cancellation or suspension of any person's registration, and of the restoration of any such registration; and
- (d) any necessary corrections or alterations to any particulars or facts referred to in paragraph (a), (b) or (c); and
- (e) any other particulars that may be prescribed by the council concerned or that the council may determine.

(5) Where a council intends to establish a register in terms of subsection (1) or (2), the council shall cause to be published in the *Gazette* and in such newspapers as the council considers appropriate, notice of its intention and the date with effect from which it intends the register to be established.

(6) Where a council has established a register in terms of subsection (1) or (2), the council shall cause notice of its establishment to be published in the *Gazette*.

## **78 Specialists registers**

(1) A council may establish and maintain a register of health practitioners who have acquired special knowledge and experience in particular branches of their profession or calling.

(2) If a council establishes a register in terms of subsection (1), it may make rules providing for—

- (a) the requirements to be satisfied by a person before he may be registered in the register, including the experience to be obtained by him, the nature and duration of the training to be undertaken by him and the degree, diploma or certificate, to be held by him; and
- (b) the conditions under which any person may be exempt from the requirements, experience or training referred to in paragraph (a); and
- (c) the conditions governing the practice of practitioners who have been registered in the register, including conditions restricting the practice of any such practitioner to a particular branch of a health profession; and
- (d) the circumstances in which a council may remove a person's name from the register.

(3) Rules made in terms of subsection (2) shall have no effect until they have been approved by the Minister and published in the *Gazette*.

(4) There shall be entered in a register established in terms of subsection (1) such particulars in relation to registered persons as the council concerned may from time to time determine.

### **79 Alteration of name of register**

(1) Subject to subsections (2) and (3), a council may, with the approval of the Minister, alter the name of a register kept in terms of this Act, and every person who, immediately before the alteration, was registered in the register as a health practitioner whose profession or calling reflected the register's old name shall for all purposes be considered as being registered as a health practitioner whose profession or calling reflects the register's new name.

(2) Where a council intends to alter the name of a register in terms of subsection (1), the council shall cause to be published in the *Gazette* and in such newspapers as the council considers appropriate, notice of its intention and the date with effect from which it intends the name of the register to be altered.

(3) Where a council has altered the name of a register in terms of subsection (1), the council shall cause notice of the alteration to be published in the *Gazette*.

### **80 Registers to be open for inspection**

Any person may inspect a register kept in terms of this Act and may make copies of any entry therein at all reasonable times on payment of such fee as may be prescribed by the council concerned:

Provided that no such fee shall be payable by—

- (a) a police officer or member of the Public Service acting in the course of his duty as such; or
- (b) any other person whom the Secretary-General or the chairman of the council concerned has authorised to inspect the register.

### **81 Duties of registrar and certificates of registration**

(1) Registers shall be kept in the custody of the registrar at the office of the council concerned.

(2) It shall be the duty of a registrar—

- (a) to enter in his registers the particulars that are required by or in terms of this Act to be entered therein; and
- (b) to make in the register concerned any necessary alterations in the name, address, qualifications or other particulars of a registered person; and
- (c) to erase from his registers the names of registered persons who have died; and
- (d) when required to do so by or under this Act or in pursuance of an order of a competent court—
  - (i) to mark in the appropriate register the registration of an applicant or, as the case may be, the suspension from practice of a registered person; and
  - (ii) to erase from a register the name of a registered person;and generally in connection with all registers to comply with this Act and any order of a competent court; and

(e) to keep his registers available for inspection in terms of section *eighty*.

(3) Where a registrar erases the name of a registered person from a register, he shall enter in that register a record of the reasons for doing so.

(4) If, in the performance of the duties imposed upon him by or under this Act, a registrar—

- (a) registers an applicant, he shall issue to him a certificate of registration;
- (b) erases from a register the name of a registered person or marks in a register the suspension from practice of a registered person, he shall, if possible, notify the person in writing accordingly.

(5) On application by a registered person, a registrar may issue to that person a duplicate certificate of registration—

- (a) if he is satisfied as to the identity of the applicant; and
- (b) on production by the applicant of an affidavit certifying that the certificate of registration has been lost or destroyed; and
- (c) on payment by the applicant of the appropriate fee, if any, prescribed by the council.

### **82 Offences in connection with registers, etc.**

A person who—

- (a) makes or causes to be made an unauthorised entry or deletion in a register or a certified copy thereof or extract therefrom or on a certificate of registration; or
- (b) procures or attempts to procure for himself or another person registration or a certificate of registration by means of fraud, a false representation or the concealment of a material fact; or
- (c) makes or causes to be made in connection with an application for registration a false declaration in a document used for the purpose of establishing his identity; or

- (d) wilfully destroys or injures or renders illegible or causes to be destroyed, injured or rendered illegible an entry in a register; or
  - (e) without the permission of the holder, wilfully destroys, injures or renders illegible or causes to be destroyed, injured or rendered illegible a certificate of registration; or
  - (f) forges or utters, knowing it to be forged, a document purporting to be a certificate of registration;
- shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Section amended by section 4 of Act 22 of 2001]

### **83 Publication of registers**

(1) Whenever directed to do so by the council concerned, a registrar shall cause copies of his registers, or of supplementary lists showing all alterations, additions, revisions and erasures made since the last publication of the complete registers, to be published in the *Gazette*.

(2) Copies of registers shall be published in terms of subsection (1) in such form as the council concerned may direct and may contain, in lists separate from the main registers, such particulars as the council may require to be published.

### **84 Registers to be evidence**

(1) Subject to subsection (2), the last published copy of a register, as read with any supplementary list, purporting to be printed and published under the authority of a council in terms of section *eighty-three* shall be *prima facie* evidence in all legal proceedings of the facts recorded therein, and the absence of the name of any person from such a copy shall be evidence, until the contrary is proved, that that person is not registered.

(2) In the case of a person—

- (a) whose name does not appear in a copy referred to in subsection (1) and whose name has been added to the register concerned after the date on which the copy was published, a certificate, signed by the registrar concerned, that the person's name has been entered in the register shall be *prima facie* evidence that the person is registered in that register; or
- (b) whose name appears in a copy referred to in subsection (1) though it was erased from the register concerned after the date on which the copy was published, a certificate, signed by the registrar, that the name of the person has been erased from the register shall be *prima facie* evidence that the person is not registered on that register; or
- (c) who has been suspended from practice in terms of this Act, a certificate, signed by the registrar, that the person has been so suspended from practice for a period specified in the certificate shall be *prima facie* evidence that the person has been suspended from practice for that period.

## **PART XVI**

### **REGISTRATION AND ERASURE FROM REGISTERS**

### **85 Qualifications for registration to be prescribed**

A council may from time to time prescribe the qualifications which, when held singly or jointly with any other qualification, shall—

- (a) qualify the holders for registration in a register established in terms of this Act; or
- (b) subject to this Part, entitle holders to registration if they have, before or in connection with or after the acquisition of the qualification, complied with such conditions or requirements as may be prescribed.

### **86 Procedure for registration**

(1) Any person who wishes to be registered shall apply in writing to the registrar concerned and shall submit with his application—

- (a) a certificate of any qualification or experience on which he relies for registration or a certified photocopy of such a certificate:

Provided that a certificate showing his registration in the state or territory in which he qualified or a certified photocopy thereof may be submitted if the certificate contains details of the qualifications on which registration was based; and

- (b) if other practical experience or training is required in the state or territory in which he qualified before registration in that state or territory—
    - (i) evidence that such experience has been gained or such training has been carried out; or
    - (ii) a certificate of registration in that state or territory or a certified photostat copy thereof;
- and

- (c) such evidence of identity, good character, reputation, compliance with the conditions prescribed in terms of section *eighty-five* and of the authenticity and validity of any certificate submitted, as the council may require; and
- (d) the appropriate application fee:

Provided that, in the case of a person who wishes to be registered in a register kept in terms of section *seventy-eight*, he shall submit with his application such particulars as may be required from time to time by the council.

(2) A council may require any statement in or in connection with an application in terms of subsection (1) to be supported by affidavit.

(3) If the registrar is satisfied that the qualifications and particulars or documents submitted in terms of subsection (1) are in accordance with the requirements of this Part and that the appropriate application fee has been paid, he shall register the applicant in the appropriate register.

(4) If the registrar is not satisfied that the qualifications, particulars or documents submitted with an application in terms of subsection (1) are in accordance with the requirements of this Part, he shall refer the application to the council for decision.

(5) A council may refuse to register an applicant if in its opinion the applicant, notwithstanding that he is otherwise qualified, is not a fit person to be registered because of—

- (a) his physical or mental health; or
- (b) the fact that he is not of good character or reputation; or
- (c) the fact that he does not have an adequate knowledge of the English language; or
- (d) any conduct on his part which, if he had been registered, would have constituted improper or disgraceful conduct or conduct which, having regard to the profession or calling for which he has applied to be registered, is improper or disgraceful:

Provided that, before refusing registration in terms of this paragraph, a council shall refer the matter to its disciplinary committee and Part XIX shall apply, *mutatis mutandis*, as if the applicant were registered in the register on which he has applied to be registered.

## **87 Register of vocational trainees**

Any person who is required in terms of paragraph (b) of section *eighty-five* after the acquisition of any qualification to undergo a period of training before he is entitled to be registered shall, subject to this Part and if he satisfies the registrar that—

- (a) he is being employed at an institution or with an employer approved by the council for the purpose; and
- (b) the appropriate application fee has been paid;

be entitled to be registered in a register kept in terms of subsection (3) of section *seventy-seven*.

## **88 Provisional registration**

(1) A council may accept any qualification which has not been prescribed in terms of section *eighty-five* as entitling the holder to be provisionally registered if, in all other respects, he satisfies the conditions and requirements of this Part for registration:

Provided that the acceptance of a particular qualification for the provisional registration of one person shall not confer any right to any form of registration on any other person holding the same qualification.

(2) A council may, as a condition of accepting any qualification for the purposes of subsection (1) and before an applicant for provisional registration is provisionally registered, require the applicant to do either or both the following—

- (a) to acquire such practical experience at such institution or with an employer approved by the council and for such period, not exceeding thirty months, as the council may specify; and
- (b) to pass, during the period of his provisional registration, such examination as the council may specify.

(3) An application for provisional registration in terms of subsection (1) shall be made in such form and shall be accompanied by such fee as may be prescribed by the council concerned.

(4) Subject to this section, a person who is provisionally registered in terms of this section shall be deemed for the purposes of this Act to be registered in the appropriate register for his profession or calling.

(5) Subject to subsection (6), the initial period of provisional registration in terms of this section shall be three years.

(6) If a person who is provisionally registered in terms of this section—

- (a) submits, not later than four months before the expiry of his provisional registration, a written application together with the appropriate fee, if any, prescribed by the council concerned; and
- (b) has satisfied any conditions fixed by the council concerned in terms of subsection (2);



he shall be registered on the appropriate permanent register unless the council considers that he should remain provisionally registered, in which case the council shall extend his provisional registration for such period, not exceeding one year at a time, and subject to such conditions, as it things fit:

Provided that the period of provisional registration shall not be extended in terms of this subsection beyond an additional three years.

(7) A council may at any time cancel the provisional registration of any person:

Provided that, before doing so the council shall afford the person concerned an opportunity of showing cause before the council as to why his provisional registration should not be cancelled.

(8) Any decision of a council under this section shall be final and not subject to appeal.

## **89 Registration of additional qualification**

(1) Any registered person who obtains a qualification which is—

(a) additional to that upon which he relied for registration in the first instance; and

(b) a qualification that the council has determined would be suitable for registration as an additional qualification;

may, upon payment of the appropriate fee, if any, prescribed by the council concerned, have that other qualification entered in the register.

(2) The council concerned may erase from the register any qualification registered in terms of subsection (1) if the registered person has, in respect of that qualification, had his name removed from the roll, register or record of the university, hospital, college, training school, institution, society or other body from which he received that qualification.

## **90 Erasures from register**

(1) A council may direct its registrar to erase from a register—

(a) the name of any person who—

(i) fails to pay any fee due in terms of section *seventy-six* on the date on which that fee becomes payable; or

(ii) has failed, within six months after the registrar has sent an inquiry by registered letter to his address as shown in the register, to notify the registrar of his present address:

Provided that, if such a registered letter is returned to the registrar because it was unclaimed or for any other reason, the council may forthwith direct that the person's name be erased from the register; or

(iii) has requested that his name be removed from the register and, if so required by the council, has lodged an affidavit that no disciplinary or criminal proceedings are being or are likely to be taken against him in connection with the practice of his profession or calling; or

(iv) is resident or practising in Zimbabwe and whose name has been removed from the roll, register or record of any university, hospital, college, training school, institution, society or other body from which he received the qualification upon the basis of which he was registered; or

(v) has been registered by the registrar in terms of subsection (3) of section *eighty-six*, if the council is satisfied that had the application been referred to it in terms of subsection (4) of that section, it would have refused to register the applicant in terms of subsection (5) of that section:

Provided that the council may not direct the erasure of the name of any person in terms of this subparagraph if more than six months has elapsed since that person was registered by the registrar;

(b) any entry which is proved to the satisfaction of the council to have been made in error or through fraudulent misrepresentation or concealment of a material fact or in circumstances not authorised by this Act.

(2) The name of a person shall be erased from—

(a) a register of vocational trainees or a provisional register—

(i) when the person is registered on a permanent register; or

(ii) on the expiry of the period of registration on such register;

(b) a provisional register on the cancellation of the person's registration in terms of subsection (7) of section *eighty-eight*.

(3) A registrar shall erase from a register of vocational trainees the name of a person who is registered on that register—

(a) who advises the registrar that he is leaving Zimbabwe, whether after completion of his service as a trainee or otherwise; or

(b) thirty months after the date of his registration, unless he satisfies the registrar that, due to illness or similar cause, the period of his training has been extended; or

- (c) on the termination of his period of training, where it has been extended in the circumstances referred to in paragraph (b); or
- (d) if the council concerned has instructed the registrar in terms of this Act to erase that person's name from the register.

(4) Before a council directs an erasure to be made in terms of subparagraph (v) of paragraph (a) or paragraph (b) of subsection (1), the council shall, if possible, afford the person concerned an opportunity of showing cause before the council as to why the erasure should not be made.

(5) A certificate of registration issued to a person whose name has been erased from a register in terms of this section shall be deemed to have been cancelled on the date of the erasure, and the person concerned shall cease to be registered with effect from that date.

## PART XVII

### PRACTISING CERTIFICATES

#### 91 Interpretation in Part XVII

In this Part—

“designated health institution” means—

- (a) any Government central, provincial or district hospital; or
- (b) any mission hospital which provides consultancy services; or
- (c) any teaching hospital established or operated by the Faculty of Medicine of the University of Zimbabwe; or
- (d) any other hospital or medical institution declared by the Authority, by notice in the *Gazette*, to be a designated health institution;

“practising certificate” means a practising certificate which has been issued or renewed in terms of section *ninety-four*.

#### 92 Health practitioners not to practise without practising certificates

(1) No person who is registered in terms of this Act shall practise or carry on the profession or calling for which he is registered, except in accordance with a valid practising certificate held by him.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

#### 93 Application for practising certificate

Any person who wishes to obtain or renew a practising certificate shall apply to the practice control committee of the council concerned in such form and manner as may be prescribed by the council—

- (a) where the application is for the issue of a practising certificate, at any time before he commences to practise or carry on his profession or calling; or
- (b) where the application is for the renewal of a practising certificate, at least thirty days before it is due to expire.

#### 94 Issue, renewal and refusal of practising certificate

(1) Subject to this section, upon an application being made to it for the issue or renewal of a practising certificate, a practice control committee may—

- (a) if satisfied that the applicant is registered in the profession or calling concerned, grant the application and issue or renew the practising certificate, as may be appropriate; or
- (b) refuse to grant the application; or
- (c) impose conditions restricting the applicant—
  - (i) to employment in a designated health institution or to some other form of employment; or
  - (ii) to a particular branch of the profession or calling concerned; or
  - (iii) in any other way whatsoever, whether similar or not to the restrictions mentioned in subparagraph (i) or (ii);

where the practice control committee considers it necessary to impose such conditions in the public interest.

(2) A practice control committee shall not refuse to issue or renew a practising certificate, nor shall it impose conditions on its issue or renewal, unless it has reasonable grounds for believing that the applicant concerned—

- (a) is not registered in respect of the profession or calling concerned; or
- (b) is not a fit and proper person to hold a practising certificate because of—
  - (i) his physical or mental health; or

- (ii) the fact that he is not of good character and reputation; or
- (iii) the fact that his conduct in relation to his profession or calling has, at any time, been improper or disgraceful; or
- (iv) in the case of the issue of a practising certificate, the fact that he has not had sufficient practical experience, or has not attained a standard of competence or proficiency, in his profession or calling; or
- (v) in the case of the renewal of a practising certificate, the fact that his standard of competence or proficiency in his profession or calling has deteriorated below that which is acceptable in the public interest.

(3) Before refusing to issue or renew a practising certificate or imposing a condition referred to in paragraph (c) of subsection (1), a practice control committee shall—

- (a) advise the person concerned that it proposes to do so, stating its reasons, and shall afford him a reasonable opportunity to make such representations in the matter as he may wish, either in writing or, at the discretion of the practice control committee, in some other way; and
- (b) in the case of a proposal to refuse to issue or renew a practising certificate, obtain a report from the council's executive committee on the proposal; and
- (c) give due consideration to any representations made in terms of paragraph (a) and any report obtained in terms of paragraph (b).

### **95 Period of validity of practising certificate**

A practising certificate shall be valid for such period, not exceeding twelve months, as may be prescribed by the council concerned.

### **96 Withdrawal of practising certificate**

(1) If a practice control committee has reason to believe that a valid practising certificate should be withdrawn it may, subject to this section, withdraw the certificate.

(2) Before withdrawing a practising certificate, a practice control committee shall—

- (a) advise the holder that it proposes to do so, stating its reasons, and shall afford him a reasonable opportunity to make such representations in the matter as he may wish, either in writing or, at the discretion of the practice control committee, in some other way; and
- (b) obtain a report from the council's executive committee on its proposal; and
- (c) give due consideration to any representations made in terms of paragraph (a) and the report obtained in terms of paragraph (b).

(3) A practice control committee shall not withdraw a practising certificate unless it has reasonable grounds for believing that, were it considering an application for the issue or renewal of the practising certificate, the application would be refused in accordance with section *ninety-four*.

## **PART XVIII**

### REGISTRATION OF HEALTH INSTITUTIONS

### **97 Interpretation in Part XVIII**

In this Part—

“appropriate council”, in relation to—

- (a) a hospital or clinic, means the Medical and Dental Practitioners Council of Zimbabwe established by Part IV;
- (b) premises in or on which any medicine is manufactured, means the Pharmacists Council of Zimbabwe established by Part VIII;
- (c) any other health institution, means the council which represents the health practitioner who owns or operates the health institution or, where health practitioners of more than one class own or operate the health institution, the council which represents the majority of such health practitioners;

and “appropriate practice control committee” shall be construed accordingly;

“register of health institutions” means the register of health institutions established and maintained in terms of section *one hundred*.

### **98 Application of Part XVIII**

This Part shall apply to all health institutions, including designated health institutions as defined in section *ninety-one*.

## **99 Health institutions to be registered**

(1) No—

- (a) person shall operate or carry on a health institution;
- (b) health practitioner shall practise his profession or calling in or from any health institution;

unless he knows or has reason to believe that the health institution is registered in the register of health institutions.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

## **100 Register of health institutions**

(1) The Authority shall establish and cause to be maintained a register of health institutions in which shall be recorded—

- (a) such particulars of all registered health institutions as may be prescribed by the Authority; and
- (b) any conditions subject to which any health institution has been registered; and
- (c) the cancellation, suspension or renewal of the registration of any health institution.

(2) Any member of the public shall be entitled to inspect the register, free of charge, at all reasonable times at the offices of the Authority.

## **101 Application for registration of health institution**

(1) An application for the registration of any health institution shall be made to the appropriate practice control committee in the form prescribed by the appropriate council, and shall be accompanied by the prescribed fee, if any.

(2) On receipt of an application in terms of subsection (1), the practice control committee may—

- (a) cause such investigation or inquiry to be conducted as it considers necessary or desirable, including the hearing of evidence from the applicant; and
- (b) where necessary, require the applicant to provide further particulars concerning the health institution concerned and the use to which it is to be put.

(3) Any person who, in an application in terms of subsection (1) or in response to any inquiry or request made in terms of subsection (2), makes any statement which he knows to be false or does not believe on reasonable grounds to be true shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

## **102 Approval or refusal of application for registration of health institution**

(1) A practice control committee shall approve an application for the registration of a health institution made in terms of section *one hundred and one* unless the practice control committee is satisfied that the application should be refused on one or more of the following grounds—

- (a) that the health institution does not comply with the standards prescribed by the appropriate council for health institutions of the class concerned;
- (b) that, because of its construction or location, the health institution is unsuitable for use as such;
- (c) that the equipment or facilities or both to be provided in the health institution are inadequate or unsuitable;
- (d) that the persons who will practise or be employed in the health institution are not suitably qualified;
- (e) that it is not in the public or national interest for the health institution to be registered.

(2) Subject to subsection (3), a practice control committee may impose such conditions upon the registration of a health institution as it considers necessary or desirable in the interests of persons who will be treated at the institution or for whom the health institution will provide services.

(3) Before a practice control committee—

- (a) refuses to authorise the registration of a health institution; or
- (b) imposes conditions upon the registration of a health institution;

it shall advise the applicant that it intends to do so, stating its reasons, and shall afford him a reasonable opportunity to make such representations in the matter as he may wish within such period, being not less than fourteen days, as the practice control committee may specify.

(4) A practice control committee shall give due consideration to any representations made by an applicant in terms of subsection (3) before refusing to authorise the registration of any health institution or imposing conditions upon its registration.

(5) Where a practice control committee—

- (a) refuses to authorise the registration of a health institution; or
- (b) imposes conditions upon the registration of a health institution otherwise than with the applicant's consent;

it shall notify the applicant in writing of its decision and of the reasons for it, and shall advise him of his right to appeal to the appropriate council in terms of subsection (4) of section *sixty-seven*.

### **103 Registration of health institution**

Where a practice control committee authorises the registration of a health institution, whether with or without conditions, it shall without delay notify the applicant and the Secretary-General of its decision, and the Secretary-General shall thereupon—

- (a) cause the particulars of the health institution concerned to be entered in the register of health institutions, together with a note of any conditions imposed in terms of subsection (2) of section *one hundred and two*; and
- (b) cause the applicant to be issued with a registration certificate in the form prescribed by the Authority, which certificate shall show the purposes for which the health institution is registered and any conditions imposed on its registration in terms of subsection (2) of section *one hundred and two*.

### **104 Duration and renewal of registration of health institution**

(1) The registration of a health institution shall remain in force until—

- (a) any material change occurs in the prescribed particulars recorded in the register in relation to that health institution; or
- (b) the expiry of such period as the Authority may prescribe in relation to the class of health institution concerned; or
- (c) the registration is cancelled in terms of section *one hundred and five*;

whichever occurs the earliest.

(2) Sections *one hundred and one*, *one hundred and two* and *one hundred and three* shall apply *mutatis mutandis*, in relation to the renewal of the registration of a health institution:

Provided that an application for such renewal shall be made within such period as the Authority may prescribe and, pending the determination of the application, the registration of the health institution concerned shall remain in force.

### **105 Cancellation and variation of registration of health institution**

(1) If at any time the appropriate practice control committee has reasonable grounds for believing that—

- (a) any condition subject to which any health institution was registered has not been observed; or
- (b) in relation to any registered health institution, circumstances exist which would justify the refusal of an application for registration, were such an application to be made; or
- (c) it would be in the interests of the public generally or a section thereof for the registration of any health institution to be cancelled or any condition attaching to such registration to be amended;

the practice control committee shall give notice thereof in writing to the person who operates or carries on the health institution.

(2) A notice in terms of subsection (1) shall—

- (a) specify the grounds on which the practice control committee's opinion is based; and
- (b) state that the person to whom it is directed may, within one month after receiving it, submit to the practice control committee any representations he may wish to make in the matter.

(3) If—

- (a) no representations are submitted in terms of paragraph (b) of subsection (2); or
- (b) after considering any representations submitted in terms of paragraph (b) of subsection (2), the practice control committee is of the opinion that, for any reason referred to in subsection (1), the registration of the health institution concerned should be cancelled or any condition attaching to its registration should be amended;

the practice control committee may direct the Secretary-General to cancel the registration of the health institution or amend any condition of its registration, as the case may be, and the Secretary-General shall thereupon—

- (i) cause the necessary entries or alterations to be made in the register of health institutions; and
- (ii) cause the person who operates or carries on the health institution to be notified of the action he has taken and require him to return the registration certificate for alteration or cancellation; and
- (iii) inform him that he may, if he wishes, appeal to the appropriate council in terms of subsection (4) of section *sixty-seven*.

### **106 Display and return of registration certificate**

(1) Every person who operates or carries on a registered health institution shall ensure that the institution's registration certificate is displayed in a prominent place within the institution.

(2) Whenever the registration of a health institution is cancelled or a condition attaching to its registration is amended, the person who operates or carries on the institution shall forthwith return the registration certificate to the Secretary-General for cancellation or alteration, as the case may be.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

## PART XIX

### DISCIPLINE OF HEALTH PRACTITIONERS

#### **107 Function of disciplinary committee**

Subject to this Act, the function of a council's disciplinary committee shall be to inquire into allegations that registered persons whom the council represents—

- (a) have been guilty of improper conduct or disgraceful conduct or conduct which, when regard is had to their professions or callings, is improper or disgraceful; or
- (b) are grossly incompetent or have performed any act pertaining to their professions or callings in a grossly incompetent manner;

and to exercise the powers conferred by section *one hundred and thirteen*.

#### **108 Notice of inquiry and representation at disciplinary proceedings**

Before exercising its powers in terms of section *one hundred and thirteen* with respect to any person, a disciplinary committee shall—

- (a) cause him to be served with a notice setting out the allegations against him; and
- (b) afford him a reasonable opportunity of being heard either by himself or, if he so wishes, through a legal practitioner.

#### **109 Taking of evidence by disciplinary committee**

(1) For the purposes of an inquiry in terms of this Part, a disciplinary committee may take evidence and—

- (a) may summon witnesses and require the production of any book, record, document, or thing; and
- (b) through its chairman, may administer an oath to any person; and
- (c) may examine any book, record, document or thing which a witness has been required to produce.

(2) A summons for attendance before a disciplinary committee or for the production to it of any book, record, document or thing shall be—

- (a) as nearly as practicable in the form prescribed by the council concerned; and
- (b) signed by the chairman of the committee or the registrar of the council concerned; and
- (c) served either by registered letter sent through the post or in the same manner as it would be served if it were a subpoena issued by a magistrates court in criminal proceedings.

(3) Any person who has been summoned in terms of subsection (2) and who, without sufficient cause—

- (a) fails or refuses to attend and give evidence relevant to the inquiry at the time and place specified in the summons; or
- (b) refuses to be sworn or affirmed when the chairman of the disciplinary committee wishes to administer an oath to him; or
- (c) fails or refuses to produce any book, record, document or thing which he has been required by that summons to produce; or
- (d) being a witness, 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 liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment:

Provided that a person referred to in this subsection shall be entitled to all the privileges to which a witness subpoenaed to give evidence before the High Court is entitled.

[Subsection amended by section 4 of Act 22 of 2001]

(4) Any person who gives false evidence on oath at an inquiry held in terms of this Part, knowing such evidence to be false or not having reasonable grounds for believing it to be true, shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

## **110 Record of disciplinary inquiry**

A disciplinary committee shall, in any inquiry held by it in terms of this Part, record the proceedings and any evidence heard, and the decision made by it and the reasons therefor.

## **111 Exercise of disciplinary powers on conviction of offence: court to forward evidence**

(1) A registered person who has been convicted inside or outside Zimbabwe, whether before, on or after the date of his registration, of an offence by a court shall be liable to be dealt with by a disciplinary committee in accordance with this Part if the disciplinary committee is of the opinion that the offence constitutes—

- (a) improper or disgraceful conduct; or
- (b) conduct which, when regard is had to the profession or calling of that person, is improper or disgraceful.

(2) A disciplinary committee may, if it thinks fit, on proof before it of a conviction referred to in subsection (1) and without hearing further evidence, deal with the convicted person in accordance with this Part:

Provided that the convicted person shall be afforded an opportunity of tendering, in writing or in person or through his legal practitioner as he may elect, an explanation to the disciplinary committee in extenuation of his conduct.

(3) Subject to the Courts and Adjudicating Authorities (Publicity Restriction) Act [*Chapter 7:04*], if, after the termination of proceedings before a court in Zimbabwe—

- (a) it appears to the court that there is *prima facie* evidence of improper or disgraceful conduct on the part of a registered person, the court shall direct that a copy of the record of the proceedings or a copy of such part of the record as is material to the issue shall be transmitted to the council which represents the registered person; or
- (b) a council requests that a record of the proceedings, or a part of such record, be supplied to it on the grounds that it is of direct interest to the council in the exercise of its functions under this Act, the clerk or registrar of the court may transmit to the council a copy of the record or a copy of such part of the record as is material.

## **112 Executive committee to refer cases to disciplinary committee**

(1) Whenever there is brought to the notice of a council's executive committee an allegation which might be the subject of inquiry by the council's disciplinary committee, the executive committee may call for information, cause such investigation to be made as it thinks necessary and seek such legal advice or other assistance as it may require.

(2) After an investigation in terms of subsection (1), the executive committee shall refer the matter to the council's disciplinary committee for inquiry and, if it thinks fit, may engage a legal practitioner to present a charge and the evidence relating thereto at the inquiry:

Provided that, if—

- (a) the executive committee considers that—
  - (i) the conduct complained of would not, even if substantiated, constitute improper or disgraceful conduct; or
  - (ii) for any other reason the allegation should not be the subject of inquiry by the disciplinary committee;

the executive committee may take such other action as it thinks fit and may, after first allowing the health practitioner concerned to make written representations, authorise the chairman of the council to admonish the health practitioner, and the executive committee shall report such action and the grounds therefor to the council;

- (b) the allegation forms or is likely to form the subject of criminal proceedings, the executive committee may postpone referring the matter to the disciplinary committee until such criminal proceedings have been determined.

## **113 Exercise of disciplinary powers**

(1) If after due inquiry a disciplinary committee decides that a health practitioner—

- (a) has been guilty of improper or disgraceful conduct or conduct which, when regard is had to his profession or calling, is improper or disgraceful and that such conduct warrants the cancellation of his registration; or
- (b) is grossly incompetent or has performed any act pertaining to his profession or calling in a grossly incompetent manner;

the disciplinary committee shall refer the matter to the council for the removal of the health practitioner's name from the register and may suspend him from practice pending a final decision by the council.

(2) If after due inquiry a disciplinary committee decides that a health practitioner has been guilty of improper or disgraceful conduct or conduct which, when regard is had to his profession or calling, is improper or disgraceful but

that such conduct does not warrant the cancellation of his registration, the disciplinary committee shall do one or more of the following—

- (a) order his suspension for a specified period from practising or performing acts specially pertaining to his profession or calling;
- (b) impose such conditions as it considers fit subject to which he shall be entitled to carry on his profession or calling;
- (c) order him to pay a penalty not exceeding an amount equivalent to a fine of level six, which penalty shall be payable to the council;

[Paragraph amended by section 4 of Act 22 of 2001]

- (d) order him to pay any cost or expenses of and incidental to the inquiry;
- (e) censure him;
- (f) caution him and postpone, for a period not exceeding three years, any further action against him on one or more conditions as to his future conduct, including the conduct or nature of his practice during that period.

(3) If at any time a disciplinary committee is satisfied that during the period of any postponement in terms of paragraph (f) of subsection (2) a health practitioner has not complied with the conditions imposed in terms of that paragraph, the disciplinary committee, after giving reasonable notice to the health practitioner concerned, may proceed further to do one or more of the things specified in subsection (2).

(4) If after an inquiry in terms of this Part a disciplinary committee has not referred the matter to the council in terms of subsection (1), it shall report to the council at its next meeting any action it has taken in terms of subsection (2) or (3).

(5) Where any matter has been referred to a council in terms of subsection (1), the council may—

- (a) direct the registrar to cancel the registration of the health practitioner and, if it thinks fit, order the practitioner to pay any costs or expenses of and incidental to the inquiry by the disciplinary committee;
- (b) do one or more of the things specified in subsection (2) which the disciplinary committee could have done and, if the council fixes any conditions in terms of paragraph (f) of subsection (2), subsection (3) shall apply as though the references therein to the disciplinary committee were references to the council.

(6) Any health practitioner who contravenes or fails to comply with any condition imposed in terms of paragraph (b) of subsection (2) on his entitlement to carry on his profession or calling shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

#### **114 Publication of result of disciplinary proceedings**

(1) A registrar shall, if so directed by the council or disciplinary committee concerned, cause to be published in the *Gazette* the name of any person—

- (a) whose registration has been cancelled; or
- (b) who has been suspended from practice in terms of this Part.

(2) A notice published in terms of subsection (1) shall be *prima facie* evidence in all legal proceedings that—

- (a) the registration of the person specified in the notice has been cancelled; or
- (b) the person specified in the notice has been suspended from practice for the period specified in the notice;

as the case may be.

#### **115 Council, executive committee and disciplinary committee not to be liable**

(1) Except as is provided in this Act, no legal proceedings, whether civil or criminal, shall lie against a council, executive committee or disciplinary committee or any member or officer thereof in respect of any act or duty performed in accordance with this Part.

(2) A council shall not be responsible for any loss of earnings by a person as a result of action taken under this Part, whether by its disciplinary committee or executive committee or by the council and whether or not the finding or penalty is subsequently varied or cancelled.

#### **116 Improper or disgraceful conduct**

(1) A council may, in regulations made in terms of section *one hundred and forty-five*—

- (a) define what, in the case of any class of health practitioners whom the council represents, shall constitute improper or disgraceful conduct; and
- (b) provide for the manner in which complaints or charges against a health practitioner may be lodged; and
- (c) provide for any other matter incidental to the investigation of and inquiry into a complaint or charge against a health practitioner.



(2) If any health practitioner has counselled or knowingly been a party to the performance of any act in respect of which an unregistered person has been convicted of an offence under Part XX, the conduct of that health practitioner shall, for the purposes of this Part, constitute improper or disgraceful conduct:

Provided that this subsection shall not be construed as exempting such a health practitioner from prosecution in a court for any offence which his conduct may constitute.

(3) Regulations referred to in subsection (1) shall not be deemed to limit the general power conferred on a disciplinary committee, an executive committee or a council to inquire into allegations of improper or disgraceful conduct not covered by such regulations and to impose any penalty under this Part on any person guilty of such conduct.

#### **117 Recovery of costs or penalty by council**

A council may, by action in a competent court, recover any costs or penalty ordered in terms of this Part to be paid by a registered person.

### **PART XX**

#### **DISABILITIES OF AND OFFENCES BY UNREGISTERED PERSONS**

#### **118 Remuneration not recoverable by unregistered persons**

No remuneration shall be recoverable in any court in respect of any act specially pertaining to a profession or calling in respect of which a register is kept in terms of this Act, where the act is performed by a person who is not registered on that register:

Provided that this section shall not apply in respect of an act which is performed within six months from the day a register is required to be kept for the first time in respect of the profession or calling concerned.

#### **119 Certain certificates invalid if signed by unregistered persons**

No certificate required by law from any member of a profession or calling in respect of which a register is required to be kept in terms of subsection (1) of section *seventy-seven* shall be valid unless the person signing the certificate is registered on the appropriate register.

#### **120 Proof of registration required before issue of certain licences and permits**

(1) Where any enactment, whether promulgated before, on or after the date of commencement of this Act, requires a health practitioner in his capacity as such to obtain a licence or permit, the authority empowered to issue the licence or permit shall not do so unless the person applying for it produces proof that he is registered on the appropriate register.

(2) Any licence or permit issued in contravention of subsection (1) shall be void.

#### **121 Unregistered persons practising as or representing themselves to be medical practitioners**

(1) Subject to subsection (2) and to section *one hundred and twenty-nine*, any person who is not registered as a medical practitioner and who—

- (a) for gain, practises or carries on business as a medical practitioner, whether or not he purports to be registered, or performs or undertakes to perform any act specially pertaining to the practice of a medical practitioner; or
- (b) pretends or, by any means whatsoever, holds himself out to be a medical practitioner, whether or not purporting to be registered; or
- (c) uses the title of medical practitioner or any name, title, description or symbol indicating or calculated to lead persons to infer that he possesses a degree, diploma or other qualification as a medical practitioner, doctor of medicine, physician or surgeon or that he is registered as a medical practitioner under this Act;

shall be guilty of an offence and liable to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

(2) Paragraph (a) of subsection (1) shall not apply in relation to—

- (a) a local authority; or
- (b) a body corporate which—
  - (i) employs a medical practitioner principally for the purpose of providing medical services for its employees; and
  - (ii) is exempted from that paragraph by the Minister by notice in the *Gazette* and on the recommendation of the Medical and Dental Practitioners Council established by Part IV.

## 122 Unregistered persons practising as or representing themselves to be dental practitioners

(1) Subject to subsections (3) and (4) and to sections *one hundred and twenty-three* and *one hundred and twenty-nine*, any person who is not registered as a dental practitioner and who—

- (a) for gain, practises or carries on business as a dental practitioner, whether or not he purports to be registered, or performs or undertakes to perform any act specially pertaining to the practice of dentistry; or
- (b) pretends or, by any means whatsoever, holds himself out to be a dental practitioner, whether or not he purports to be registered, or to be entitled to practise dentistry or to perform any act specially pertaining to the practice of dentistry; or
- (c) uses the title of dental practitioner or dentist or any name, title, description or symbol indicating or calculated to lead persons to infer that he possesses a degree, diploma or other qualification as a dental practitioner or dentist or that he is registered as a dental practitioner or entitled to practise dentistry under this Act; or
- (d) advertises in any manner or by any means whatsoever that he is able and willing to give advice in dentistry or in any act specially pertaining to the practice of dentistry;

shall be guilty of an offence and liable to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(2) For the purposes of subsection (1), any of the following acts shall be regarded as an act specially pertaining to the practice of dentistry—

- (a) the performance of any operation and the treatment of any disease, deficiency or lesion on or of human teeth or jaws, the correction of any malposition thereof and the performance of radiographic work in connection with human teeth or jaws;
- (b) the giving of any anaesthetic in connection with any operation on human teeth or jaws;
- (c) the making, repairing, alteration or supply of artificial dentures, restorative dental appliances or other similar dental appliances;
- (d) the taking in a mouth of any impression or bite with a view to making, repairing, altering or supplying any artificial dentures, restorative dental appliance or other similar dental appliance;
- (e) the trying or fitting in a mouth of any artificial dentures, restorative dental appliance or other similar dental appliance;
- (f) the performance of any such operation or the giving of any such treatment, advice or attendance as is usually performed or given by a dental practitioner or any operation, treatment, advice or attendance preparatory to or for the purpose of or in connection with the making, repairing alteration, supplying, fitting, insertion or fixing of artificial dentures or any restorative dental appliance or other similar dental appliance;
- (g) cleaning and polishing teeth;
- (h) scaling teeth, that is to say the removal of tartar deposits, accretions and stains from those parts of the surfaces of the teeth which are exposed or which are directly beneath the free margins of the gums, including the application of medicaments appropriate thereto;
- (i) the application to the teeth of solutions of sodium or stannous fluoride or such other similar prophylactic solutions as the Medical and Dental Practitioners Council established by Part IV may from time to time specify for the purposes of this paragraph in regulations made in terms of section *one hundred and forty-five*;
- (j) the application to the teeth of fissure sealants.

(3) Nothing in this section shall be construed as preventing—

- (a) any of the following acts, when performed by a registered medical practitioner in the ordinary course of his practice—
  - (i) the performance of any operation or the treatment of any disease, deficiency or lesion of the jaws and soft tissue of the mouth; or
  - (ii) the giving of any anaesthetic in connection with a dental operation; or
  - (iii) the performance of any radiographic work;
- or
- (b) the extraction of a tooth—
  - (i) by a registered medical practitioner, where the services of a dental practitioner are not readily available; or
  - (ii) by any person, where the case is urgent and no registered medical or dental practitioner is available and the operation is performed without the application of a local or general anaesthetic;

or

- (c) the performance in any public service of dental work by any person in accordance with conditions approved by the Minister;
- (d) the carrying on, in accordance with conditions approved by the Minister, of the practice of dental surgery at any hospital or other institution approved for the purposes of this paragraph by the Minister; or
- (e) the performance, in relation to the practice of dental surgery, of any radiographic work at a hospital or nursing home or at the request or under the direction of a registered medical or dental practitioner; or
- (f) the making, repairing or altering for gain of artificial dentures, restorative dental appliances or other similar dental appliances by any person who is registered as a dental technician:

Provided that nothing in this paragraph shall be construed as permitting a registered dental technician to perform an operation in the mouth of any person, including the taking of an impression or bite.

(4) Paragraph (a) of subsection (1) shall not apply in relation to—

- (a) a local authority; or
- (b) a body corporate which—
  - (i) employees a dental practitioner principally for the purpose of providing dental services for its employees; and
  - (ii) is exempted from that paragraph by the Minister, by notice in the *Gazette* and on the recommendation of the Medical and Dental Practitioners Council established by Part IV.

### 123 Dental auxiliaries

(1) The Medical and Dental Practitioners Council established by Part IV may make regulations in terms of section *one hundred and forty-five* specifying acts specially pertaining to the practice of dentistry which may be performed by persons who are registered as dental hygienists, dental technicians or dental therapists and, in so doing, the council may fix conditions subject to which such acts may be so performed, including without derogation from the generality of the foregoing, a condition that the persons are employed by the State or a local authority.

(2) Notwithstanding section *one hundred and twenty-two*, registered persons referred to in subsection (1) may perform or hold themselves out to be entitled to perform any act which they are permitted to perform under regulations referred to in that subsection, if such acts are performed or are to be performed in accordance with any conditions fixed in the regulations.

### 124 Unregistered persons practising as or representing themselves to be pharmacists

(1) Subject to section *one hundred and twenty-nine*—

- (a) any individual who is not registered as a pharmacist and who—
  - (i) for gain, practises or carries on business as a pharmacist, whether or not he purports to be registered as such; or
  - (ii) pretends or by any means whatsoever holds himself out to be a pharmacist, whether or not he purports to be registered as such;
- (b) any person who is not registered as a pharmacist and who uses the title of pharmacist, chemist, pharmaceutical chemist, chemist and druggist or any name, title, description or symbol indicating or calculated to lead persons to infer that he possesses a degree, diploma or other qualification as a pharmacist or that he is registered as a pharmacist under this Act;

shall be guilty of an offence and liable to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

(2) Paragraph (b) of subsection (1) shall not apply in relation to—

- (a) a body corporate—
  - (i) which is incorporated in terms of any law; and
  - (ii) the majority of whose directors are registered pharmacists; and
  - (iii) the majority in value of whose shares are held by registered pharmacists;
- or
- (b) a private company or private business corporation, if the control and management of that company or corporation is held by one or more registered pharmacists; or
- (c) a partnership, if the control and management of that partnership is held by one or more registered pharmacists.

### 125 Unregistered persons practising as or representing themselves to be dispensing opticians

(1) Subject to subsection (2) and to section *one hundred and twenty-nine*—

- (a) any individual who is not registered as a dispensing optician and who—

- (i) for gain, practises or carries on business as a dispensing optician, whether or not he purports to be registered; or
- (ii) pretends or by any means whatsoever holds himself out to be a dispensing optician, whether or not he purports to be registered;

or

- (b) any person who is not registered as a dispensing optician and who uses the title of dispensing optician or optician or any name, title, description or symbol indicating or calculated to lead persons to infer that he possesses a degree, diploma or other qualification as a dispensing optician or that he is registered as a dispensing optician under this Act;

shall be guilty of an offence and liable to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

(2) Paragraph (b) of subsection (1) shall not apply in relation to—

(a) a body corporate—

- (i) which is incorporated in terms of any law; and
- (ii) the majority of whose directors are registered dispensing opticians; and
- (iii) the majority in value of whose shares are held by registered dispensing opticians;

or

- (b) a private company or private business corporation, if the control and management of that company or corporation is held by one or more registered dispensing opticians; or
- (c) a partnership, if the control and management of that partnership is held by one or more registered dispensing opticians.

## **126 Unregistered persons practising as registered persons or representing themselves to be members of any other profession or calling in respect of which register is kept**

(1) In this section—

“designated register” means a register kept in terms of subsection (1) of section *seventy-seven*, other than a register of medical practitioners, dental practitioners, pharmacists or dispensing opticians.

(2) Any person who is not registered on a designated register and who—

- (a) for gain, practises a profession or calling in respect of which a designated register is kept, whether or not he purports to be registered in that register, or who performs or undertakes to perform any act specially pertaining to such a profession or calling; or
- (b) pretends or, by any means whatsoever, holds himself out to be a member of a profession or calling in respect of which a designated register is kept, whether or not he purports to be registered on that register; or
- (c) uses any name, title, description or symbol indicating or calculated to lead persons to infer that he is a member of a profession or calling in respect of which a designated register is kept, or that he possesses a degree, diploma or other qualification in that profession or calling or that he is registered in respect of that profession or calling under this Act;

shall be guilty of an offence and liable to a fine not exceeding level eight or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

(3) Any person who is registered on a designated register and falsely holds himself out to be qualified for registration or to be registered on any other designated register shall be guilty of an offence and liable to a fine not exceeding level eight or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

## **127 Body corporate not to imply that it is registered**

If any body corporate, or any director, agent or employee of a body corporate does an act of such a nature or in such manner as to be calculated to imply that the body corporate is registered under this Act or recognised by law as registered to practise a profession or calling in respect of which a register is required to be kept in terms of subsection (1) of section *seventy-seven*—

- (a) the body corporate shall be guilty of an offence and liable to a fine not exceeding level six; and
- (b) in the case of an act done by a director, agent or employee of the body corporate he shall also be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Section amended by section 4 of Act 22 of 2001]

## PART XXI

### GENERAL

#### **128 Appeal to High Court from decisions of Authority**

(1) Any person who is aggrieved by a decision of the Authority—

(a) in an appeal under section *twenty-two*; or

(b) in regard to the registration of a health institution under Part XVIII;

may, after notice to the Authority and within three months after being notified of the Authority's decision, appeal to the High Court against the decision.

(2) On an appeal in terms of subsection (1), the High Court may—

(a) confirm, vary or set aside the decision appealed against; or

(b) give such decision in the matter as it considers the Authority ought to have given; or

(c) remit the matter to the Authority for further consideration;

and may make such order as to costs or otherwise as it considers fit:

Provided that the High Court shall not set aside the Authority's decision solely because of any informality in the proceedings of the Authority or of any council or committee whose decision was the subject of an appeal to the Authority, if the High Court is satisfied that the informality did not embarrass or prejudice the appellant in the conduct of his case.

(3) For the purposes of an appeal in terms of this section, the High Court may call in the aid of one or more specially qualified assessors and hear the appeal wholly or partly with their assistance, but the decision of the High Court in such appeal shall be made or given by the judge or judges alone.

(4) The remuneration, if any, to be paid to an assessor called in terms of subsection (3) shall be determined by the High Court.

(5) Subject to this section, the procedure in any appeal under this section shall be as prescribed in rules of court made in terms of the High Court Act [*Chapter 7:06*].

#### **129 Exemptions from registration**

(1) Notwithstanding anything to the contrary in this Act—

(a) if a registered medical practitioner or dental practitioner calls in as consultant a medical practitioner or dental practitioner who is neither resident nor registered in Zimbabwe, the consultant shall not be required to be registered in Zimbabwe in respect of his attendance upon the patient with respect of whom he has been called in consultation;

(b) a medical practitioner or dental practitioner who is neither resident nor registered in Zimbabwe and who is called into Zimbabwe at the *bona fide* request of a patient shall not be required to be registered in Zimbabwe in respect of his attendance on that patient;

(c) a person who—

(i) practises a profession or calling in respect of which a register is kept; and

(ii) is neither resident nor registered in Zimbabwe; and

(iii) is appointed by the council concerned or by some other body approved by the council to conduct an examination in Zimbabwe;

shall not be required to be registered in Zimbabwe in respect of his duties in connection with the conduct of that examination;

(d) a person who practises a profession or calling in respect of which a register is kept and who is—

(i) a member of a naval, military, air or police force of a country other than Zimbabwe and temporarily stationed on duty in Zimbabwe; or

(ii) a delegate of the International Committee of the Red Cross and has entered Zimbabwe with the consent of or at the invitation of the Government for the purpose of inspection;

shall not be required to be registered in Zimbabwe in respect of his duties as a member of that force or as such a delegate, as the case may be;

(e) a council may exempt from any provision of this Act regarding registration any person who is not permanently resident in Zimbabwe and who is engaged for up to four months solely in teaching or research work affecting any of the professions or callings in respect of which a register is kept for a period not exceeding four months, and such an exemption shall be valid for such period as the council may fix;

(f) the Minister may, by notice in the *Gazette*, declare that any class of persons specified in that notice may carry out for gain specified duties connected with the promotion of primary health-care notwithstanding that they are not registered in terms of this Act.

(2) Any prescription or order signed by a person exempted from registration in terms of subsection (1) and given by him in the course of his practice under that subsection shall for the purposes of any law relating to medicines, have the same force and effect as a prescription or order signed by a registered person.

(3) Nothing in this Act shall be construed so as to prevent the training of persons in a profession or calling in respect of which a register is kept.

### **130 Health practitioners becoming unfit to practise**

(1) Whenever there is brought to the notice of a council's executive committee an allegation that a health practitioner has—

- (a) become mentally or physically disabled to such an extent that it would be contrary to the public welfare to allow him to continue to practise; or
- (b) become unfit to purchase, acquire, keep, use, prescribe, order, supply or possess any medicine; or
- (c) been using a medicine or drug in contravention of any law or enactment; or
- (d) become addicted to or dependent upon the use of any medicine or drug;

the executive committee may call for information and cause such investigation to be made as it thinks necessary and may seek such legal advice or other assistance as it may require and thereafter, if it considers it necessary, may refer the matter for inquiry by a committee appointed by the council in terms of paragraph (e) of subsection (1) of section *sixty-seven*.

[Subsection amended by section 43 of Act 14 of 2002]

(2) Part XIX shall apply, *mutatis mutandis*, to any inquiry conducted by a committee in terms of subsection (1):

Provided that, in addition to the penalties referred to in section *one hundred and thirteen*, the committee may, in the case of a person to whom paragraph (b), (c) or (d) of subsection (1) applies—

- (a) prohibit the person for a specified period from purchasing, acquiring, keeping, using, prescribing, ordering, supplying or possessing any specified medicine or drug; or
- (b) impose for a specified period such conditions as it considers fit subject to which the person shall be entitled to purchase, acquire, keep, use, prescribe, order, supply or possess any specified medicine or drug.

(3) The committee to which a matter has been referred to in terms of subsection (1) may extend, withdraw or in any other manner amend any order made under this section.

(4) A registered person who contravenes or fails to comply with an order made or condition imposed under this section shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

### **131 Reports on training, qualifications and practice of health practitioners**

A council may and, if so required by the Minister, shall consider and report to the Minister upon any matter relating to the professional or technical training or other qualifications required for admission to a profession or calling in respect of which the council maintains a register, and the conditions of practice of health practitioners registered in respect of such profession or calling.

[Section amended by section 43 of Act 14 of 2002]

### **132 Grant of diplomas and certificates of competence**

(1) A council may grant diplomas or certificates of competence to persons who have—

- (a) undergone such training and courses of instruction as the council may prescribe; and
- (b) passed an examination or examinations in Zimbabwe or elsewhere to the satisfaction of the council.

(2) A council shall keep a record of all persons to whom diplomas or certificates have been granted in terms of subsection (1).

### **133 Cancellation of diploma or certificate of competence granted by council**

Whenever a council orders the erasure from a register of the name of a registered person, it may also cancel any diploma or certificate of competence granted to that person by the council under this Act or by any former council under a repealed Act.

### **134 Restoration to register**

Where the name of a person has been erased from a register in terms of this Act, the council concerned may, if it thinks fit, authorise the restoration of the person's name to the appropriate register:

Provided that, in the case of a person whose name has been erased in terms of Part XIX, a council may direct that his name shall not be registered before the expiry of such period as the council may fix in that particular case.

### **135 Advertising in relation to health practitioners prohibited**

(1) In subsection (2)—

“advertise” includes—

- (a) publishing any statement or claim in a newspaper, magazine, notice, handbill, pamphlet, card or circular; and
  - (b) broadcasting any statement or claim by electronic or other means.
- (2) No person shall advertise that—
- (a) he is skilled in the practice of any health profession or in any act specially pertaining to any health profession; or
  - (b) he is willing to practise any health profession or perform or any act specially pertaining to any health profession; or
  - (c) he is competent to teach the practice of any health profession or the performance of any act specially pertaining to any health profession; or
  - (d) he is seeking or requiring human subjects for any investigation or research involving the practice of any health profession;

except in such manner as may be specified in any regulations or rules made under this Act which define ethical practice or discipline in the health profession concerned.

(3) Any person who contravenes subsection (2) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

### **136 Authority, councils, committees and registrars to observe rules of natural justice**

Without derogation from any other law, whenever the Authority, a council, a committee or a registrar exercises any function under this Act which has or may have an adverse effect on the practice or rights of any health practitioner, the Authority, council, committee or registrar shall ensure that it or he, as the case may be, observes the rules commonly known as the rules of natural justice and, in particular, shall ensure that the health practitioner concerned is afforded an adequate opportunity to make representations in the matter to the Authority, the council, the committee or the registrar, as the case may be.

### **137 Persons suspended from practice deemed to be unregistered**

For the purposes of Part XX, a person who has been suspended under section *one hundred and thirteen* or *one hundred and thirty* shall be deemed for the duration of his suspension—

- (a) not to be registered in the profession or calling from the practice of which he has been suspended; or
- (b) not to be registered in regard to those acts specially pertaining to his profession or calling which he has been suspended from performing;

as the case may be, and his registration certificate and practising certificate shall be deemed to be cancelled or amended accordingly until the period of suspension has expired.

### **138 Burden of proof of registration**

In any criminal proceedings against a person upon a charge of having performed any act which constitutes an offence under this Act if performed by a person who is not registered, the person charged shall be deemed to be not registered unless he proves the contrary.

### **139 Personation of registered person or misrepresentation**

(1) Any person who impersonates a registered person shall be guilty of an offence and liable to a fine not exceeding level eight or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

(2) A registered person who takes, uses or publishes in any way whatsoever a name, title, description or symbol indicating or calculated to lead any person to infer that he possesses a qualification which relates to a profession or calling in respect of which a register is kept and which is not shown in the register in connection with his name shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

### **140 False statements**

Any person who makes any statement verbally or in writing to a council or any committee thereof or in connection with any matter regulated by or under this Act which he knows to be false or does not have reasonable grounds for believing to be true shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Section amended by section 4 of Act 22 of 2001]

#### **141 Use of designation of Member of Pharmaceutical Society**

Any person who is not a member of the Pharmaceutical Society of Zimbabwe and who takes or uses in connection with the sale of goods, whether by wholesale or by retail, the designation “Member of the Pharmaceutical Society” or “Member of the Pharmaceutical Society of Zimbabwe” shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

#### **142 Notification of change of address**

(1) A registered person who changes his address shall notify that fact to the registrar of the council concerned within one month after the change.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level three.

[Subsection amended by section 4 of Act 22 of 2001]

#### **143 Notification of death**

If a registrar of births and deaths referred to in section 3 of the Births and Deaths Registration Act [Chapter 5:02], receives notice of a death which shows that the deceased person belonged to a profession or calling in respect of which a register is kept under this Act, he shall forthwith notify the registrar concerned of that person’s death.

#### **144 Service of notices**

Any notice which is required by this Act to be served on a registered person shall be deemed to have been properly served if it is sent by registered letter to his address as shown in the register.

#### **145 Regulations**

(1) Subject to subsection (5), the Authority or a council may make regulations prescribing anything which in terms of this Act is to be prescribed or done by regulation or which, in the opinion of the Authority or the council, as the case may be, is necessary or convenient to be prescribed for carrying out or giving effect to the functions and responsibilities of the Authority or the council, as the case may be.

(2) Regulations made by the Authority in terms of subsection (1) may provide for—

- (a) the conduct of meetings of the Authority and any of its committees;
- (b) the mediation and settlement of disputes between councils or between any council and a registered person;
- (c) the conduct of appeals in terms of section *twenty-two*;
- (d) the appointment, conditions of service and functions of employees of the Authority.

(3) Regulations made by a council in terms of subsection (1) may provide for—

- (a) the fees which shall be payable—
  - (i) on an application for registration or the renewal of registration;
  - (ii) on an application for transfer from one register to another or for restoration to a register;
  - (iii) on an application for the registration of an additional qualification;
  - (iv) for the issue of a duplicate certificate of registration or certified extract from a register or any other certificate issued by the registrar;
- (b) the circumstances in which an application fee may be refunded to an applicant where he or the additional qualification, as the case may be, is not registered in accordance with his application;
- (c) distinctive uniforms, badges or tokens which may be worn or used by any registered person or class of registered persons, and the prohibition of—
  - (i) the wearing or use of any such uniform, badge or token or any colourable imitation thereof, by anyone other than a registered person or class of registered persons specified in the regulations; and
  - (ii) the manufacture, sale or supply of any such uniform, badge or token by anyone other than a person approved for the purpose;
- (d) the conduct and practice of any profession or calling;
- (e) subject to section *one hundred and forty-six*, the detailing of acts which shall or shall not be acts specially pertaining to a profession or calling in respect of which a register is kept in terms of this Act;
- (f) the minimum standards in respect of the construction and location of health institutions and the equipment and facilities to be provided therein:

Provided that a council may, having regard to the purposes for which a health institution is to be registered, prescribe different standards to be applicable in respect of different professions or callings;

- (g) the staffing and supervision of health institutions and the services that may be provided therein or therefrom;
- (h) the keeping of records and the submission of reports by persons who operate or carry on registered health institutions.



(4) Regulations made in terms of subsection (1) may provide penalties for contraventions thereof, but no such penalty shall exceed a fine of level four or imprisonment for a period of three months or both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

(5) Regulations made in terms of subsection (1) shall not have effect until they have been approved by the Minister and published in the *Gazette*.

#### **146 Regulations regarding scope of natural therapists' professions or callings**

(1) Subject to subsection (2), the Minister may make regulations—

- (a) defining the scope of the profession or calling of any natural therapist;
- (b) specifying the acts which, for the purposes of this Act, shall be deemed to be acts specially pertaining to that profession or calling.

[Subsection amended by section 43 of Act 14 of 2002]

(2) Before making regulations in terms of subsection (1), the Minister shall consult any professional board established for the profession or calling concerned in terms of section *seventy-three* or established for any other profession or calling which, in the Minister's opinion, may be affected by the regulations, and shall give the board an opportunity to submit representations as to the definition of the scope of the profession or calling concerned.

#### **147 Minister may amend certain references in enactments**

Where—

- (a) the name of a register kept in terms of this Act has been altered in terms of this Act; and
- (b) in this Act or any other enactment there is a reference to that register under its old title or to persons registered as members of the profession or calling to which that register relates under the old title of that register;

the Minister may, by statutory instrument, amend the references mentioned in paragraph (b) so as to refer to the new title of that register.

#### **148 Minister may amend First Schedule**

The Minister may, by statutory instrument, amend the First Schedule—

- (a) to alter the name of any register specified therein, where the name has been altered in terms of this Act; or
- (b) to add the name of any new register that has been established in terms of this Act.

## **PART XXII**

### **TRANSITIONAL PROVISIONS, AMENDMENTS, REPEALS AND SAVINGS**

#### **149 Interpretation in Part XXII**

In this Part—

“fixed date” means—

- (a) the date fixed in terms of subsection (2) of section *one* as the date of commencement of this Act; or
- (b) in relation to any provision for which a different date of commencement has been fixed in terms of subsection (2) of section *one*, the date of commencement of that provision;

“former council” means—

- (a) the Chiropractors Council of Zimbabwe established by section 3 of the Chiropractors Act [*Chapter 27:04*]; or
- (b) the Health Professions Council established by section 3 of the Medical, Dental and Allied Professions Act [*Chapter 27:08*]; or
- (c) the Natural Therapists Council of Zimbabwe established by section 3 of the Natural Therapists Act [*Chapter 27:09*]

“repealed Act” means an Act repealed by section *one hundred and fifty-two*;

“successor council”, in relation to—

- (a) the Chiropractors Council of Zimbabwe established by section 3 of the Chiropractors Act [*Chapter 27:04*] means the Natural Therapists Council of Zimbabwe established by section *thirty-seven*;
- (b) any asset, liability or employee of the Health Professions Council established by section 3 of the Medical, Dental and Allied Professions Act [*Chapter 27:08*], means the council to which the Minister has directed that the asset, liability or employee should be transferred in terms of subsection (3) of section *one hundred and fifty-three*;

- (c) the Natural Therapists Council of Zimbabwe established by section 3 of the Natural Therapists Act [Chapter 27:09], means the Natural Therapists Council of Zimbabwe established by section *thirty-seven*;

“transfer date”, in relation to any asset, liability or employee, means the date on which the asset, liability or employee is transferred from a former council to a successor council in terms of subsection (2) or (3), as the case may be, of section *one hundred and fifty-three*.

## **150 Constitution of first councils**

- (1) For the purpose of constituting the first councils under this Act, the Minister shall appoint—
- (a) nine persons, who are registered in a profession or calling specified in Part I of the First Schedule, to act as members of the Medical and Dental Practitioners Council of Zimbabwe until such time as the members referred to in paragraph (e) of subsection (1) of section *thirty-one* have been elected as members of that council; and
  - (b) six persons, who are registered in a profession or calling specified in Part II of the First Schedule, to act as members of the Allied Health Practitioners Council of Zimbabwe until such time as the members referred to in paragraph (b) of subsection (1) of section *thirty-five* have been elected as members of that council; and
  - (c) two persons, who are registered in a profession or calling specified in Part I of the First Schedule, to act as members of the Natural Therapists Council of Zimbabwe until such time as the members referred to in paragraph (b) of subsection (1) of section *thirty-nine* have been elected as members of that council; and
  - (d) three persons, who are registered in a profession or calling specified in Part III of the First Schedule, to act as members of the Natural Therapists Council of Zimbabwe until such time as the members referred to in paragraph (c) of subsection (1) of section *thirty-nine* have been elected as members of that council; and
  - (e) ten persons, who are registered in a profession or calling specified in Part IV of the First Schedule, to act as members of the Nurses Council of Zimbabwe until such time as the members referred to in paragraph (c) of subsection (1) of section *forty-three* have been elected as members of that council; and
  - (f) four persons, who are registered in the appropriate profession or calling specified in Part V of the First Schedule, to act as members of the Pharmacists Council of Zimbabwe until such time as the members referred to in paragraphs (b), (c) and (d) of subsection (1) of section *forty-seven* have been elected as members of that council; and
  - (g) nine persons, who are registered in a profession or calling specified in Part VI of the First Schedule, to act as members of the Medical Laboratory and Clinical Scientists Council of Zimbabwe until such time as the members referred to in paragraph (f) of subsection (1) of section *fifty-one* have been elected as members of that council; and
  - (h) seven persons, who are registered in a profession or calling specified in Part VII of the First Schedule, to act as members of the Environmental Health Practitioners Council of Zimbabwe until such time as the members referred to in subsection (2) of section *fifty-five* have been elected as members of that council; and
  - (i) seven persons, who are registered in a profession or calling specified in Part VIII of the First Schedule, to act as members of the Medical Rehabilitation Practitioners Council of Zimbabwe until such time as the members referred to in subsection (2) of section *fifty-nine* have been elected as members of that council.

(2) When appointing persons in terms of subsection (1), the Minister shall ensure, so far as possible, that all the professions and callings for which the council concerned is responsible are equitably represented on the council.

(3) Persons appointed in terms of subsection (1) shall be deemed, for the purposes of this Act, to have been duly elected as members of the council concerned and shall hold office until the members for whom they are acting have been elected.

(4) Persons appointed to a council in terms of subsection (1) shall be eligible for election to the council concerned, notwithstanding that they are already acting as members thereof.

## **151 Amendment of Acts**

The Act specified in each Part of the Third Schedule is amended to the extent set out in that Part.

## **152 Repeals**

Subject to this Part—

- (a) the Chiropractors Act [Chapter 27:04];
- (b) the Medical, Dental and Allied Professions Act [Chapter 27:08]; and
- (c) the Natural Therapists Act [Chapter 27:09];
- (d) the Psychological Practices Act [Chapter 27:11];

are repealed.

### 153 Temporary continuation of former councils and transitional provisions

- (1) Notwithstanding the repeal of the Acts referred to in section *one hundred and fifty-two*—
- (a) the former councils shall continue in existence until all their assets and liabilities have been transferred to their successor councils in terms of this section;
  - (b) until the first Natural Therapists Council of Zimbabwe has been constituted in terms of Part VI—
    - (i) the council established by section 3 of the Natural Therapists Act [*Chapter 27:09*]; and
    - (ii) the council established by the Chiropractors Act [*Chapter 27:04*];may exercise all the powers, jurisdiction and authority conferred on the first-mentioned council by this Act over persons registered in any profession or calling specified in Part III of the First Schedule;
  - (c) until the first councils, other than the Natural Therapists Council of Zimbabwe, have been constituted in terms of this Act, the Health Professions Council established by section 3 of the Medical, Dental and Allied Professions Act [*Chapter 27:08*] may exercise all the powers, jurisdiction and authority conferred on a council by this Act over persons registered in any profession or calling specified in the First Schedule, other than those specified in Part III of that Schedule:

Provided that, whenever a first council is constituted under this Act, the Health Professions Council shall cease to have any power, jurisdiction or authority over the registered persons who are represented by that first council.

(2) The Natural Therapists Council of Zimbabwe established by section 3 of the Natural Therapists Act [*Chapter 27:09*] and the Chiropractors Council established by section 3 of the Chiropractors Act [*Chapter 27:04*], shall take all necessary steps to effect the transfer of its assets, liabilities and employees to the Natural Therapists Council of Zimbabwe established by section *thirty-seven*.

(3) The Minister, after consultation with the Authority and the councils concerned, shall issue written directions to the Health Professions Council established by section 3 of the Medical, Dental and Allied Professions Act [*Chapter 27:08*], specifying—

- (a) which of its assets, liabilities and employees shall be transferred to which of the councils established by this Act; and
  - (b) the date or dates on which its assets, liabilities and employees shall be so transferred;
- and the Health Professions Council shall comply with any such direction.

(4) No employee shall be transferred in terms of subsection (2) or (3) without his consent.

(5) On the relevant transfer date—

- (a) every asset and liability of a former council shall vest in the successor council;
- (b) every employee of a former council who has been transferred with his consent to a successor council shall be employed by that successor council on such terms and conditions as may be agreed between himself and the successor council.

(6) If any person transferred to the employment of a successor council in terms of this section was, immediately before his transfer, serving a period of notice of discharge, resignation or retirement, which period terminates after his transfer, the notice of discharge, resignation or retirement, as the case may be, shall be treated as if it had been given to the successor council.

(7) The conditions of employment, taken as a whole, on which any person is transferred to the employment of a successor council in terms of this section shall be no less favourable than the conditions of employment, taken as a whole, that were applicable to him immediately before his transfer, and for the purpose of determining his rights thereunder, his employment with the former council shall be regarded as continuous employment with the successor council.

(8) All bonds, hypothecations, deeds, contracts, instruments, documents and working arrangements that subsisted immediately before the relevant transfer date and to which a former council was a party shall, on and after that date, be as fully effective and enforceable against or in favour of the successor council as if, instead of the former council, the successor council had been named therein.

(9) It shall not be necessary for the Registrar of Deeds to make any endorsement on title deeds or other documents or in his registers in respect of any immovable property, right or obligation which passes to a successor council under this section, but the Registrar of Deeds, when so requested in writing by the successor council in relation to any particular such property, right or obligation, shall cause the name of the successor council to be substituted, free of charge, for that of the former council on the appropriate title deed or other document or in the appropriate register.

(10) Any proceeding or cause of action which existed or was pending by or against a former council immediately before the relevant transfer date may be enforced or continued, as the case may be, by or against the successor council as it might have been by or against the former council had this Act had not been passed.

(11) Notwithstanding anything to the contrary in this Act, the Minister may give directions to a former council or a successor council in order to ensure the proper transfer of the assets, liabilities and employees of the former council to the successor council, and the councils concerned shall without delay comply with every such direction.

(12) A successor council may continue or institute disciplinary or other proceedings against a health practitioner notwithstanding that the conduct that gave rise to the proceedings took place before the successor council was constituted.

#### **154 Saving of regulations, etc.**

All regulations, rules, by-laws or notices which were in force under a repealed Act immediately before the fixed date shall remain in force as if they had been made by the appropriate council or authority under this Act.

#### **155 Saving of registers and registrations**

(1) Every register which was in existence under a repealed Act immediately before the fixed date shall be deemed to have been established under this Act and shall continue in existence under the appropriate name specified in the First Schedule.

(2) Every person who, immediately before the fixed date, was registered in a register in terms of a repealed Act shall be deemed to have been registered on the appropriate register in terms of this Act, subject to the same conditions, restrictions or limitations, if any, as applied to him immediately before the fixed date.

#### **156 Persons previously not required to register**

(1) Any person who immediately before the fixed date, was practising a profession or calling specified in the First Schedule in relation to which registration was not compulsory under a repealed Act may apply to the appropriate council within six months from the fixed date for registration on that register.

(2) When a new register is established in terms of this Act after the fixed date, a person who, immediately before the establishment of that new register, was practising in Zimbabwe in the profession or calling to which that new register relates may apply to the appropriate council within six months from the date of establishment of the new register for registration on that register.

(3) Upon an application in terms of subsection (1) or (2), and upon being satisfied that, immediately before the fixed date or the establishment of the new register, as the case may be, the applicant lawfully earned the main part of his income from the practice of the profession or calling for which the register concerned has been established, the council shall direct that the applicant be registered in the register concerned, if he possesses qualifications which the council considers to be equivalent to the qualifications required for registration in that register.

### **FIRST SCHEDULE (SECTIONS 2, 28, 29(2), 30(1), 31, 33(2), 34(1), 36, 37(2), 38(1), 40, 41(2), 42(1), 44, 45(2), 46(1), 48, 49(2), 50(1), 52, 53(2), 56, 57(2), 58(1), 77(2), 150(1), 153(1), 155(1) AND 156(1))**

#### HEALTH PROFESSIONS

##### PART I

###### MEDICAL AND DENTAL PRACTITIONERS COUNCIL OF ZIMBABWE

1. Medical practitioners
2. Dental practitioners
3. Dental technicians
4. Dental therapists
5. Dental hygienists
6. Radiologists

##### PART II

###### ALLIED HEALTH PRACTITIONERS COUNCIL OF ZIMBABWE

1. Clinical assistants
2. Clinical social workers
3. Dieticians
4. Dyslexia therapists
5. E.C.G. technicians

6. Electroencephalographic technicians
7. Hospital food service supervisors
8. Instrument technicians
9. Medical physicists
10. Operating theatre technicians
11. Para-medicals
12. Psychologists
13. Radiographers
14. Remedial gymnasts
15. X-ray operators

### PART III

NATURAL THERAPISTS COUNCIL OF ZIMBABWE

1. Acupuncturists
2. Ayurvedic practitioners
3. Chiropractors
4. Homeopathic practitioners
5. Naturopaths
6. Osteopathy practitioners

### PART IV

NURSES COUNCIL OF ZIMBABWE

1. General registered nurses
2. Maternity/Midwifery nurses
3. Paediatric nurses
4. Psychiatric nurses
5. State certified maternity nurses
6. State certified nurses
7. State certified traumatology nurses

### PART V

PHARMACISTS COUNCIL OF ZIMBABWE

1. Dispensing opticians
2. Hearing aid specialists
3. Optometrists
4. Orthoptists
5. Pharmacists
6. Pharmacy technicians

### PART VI

MEDICAL LABORATORY AND CLINICAL SCIENTISTS COUNCIL OF ZIMBABWE

1. Cyto technicians
2. Medical laboratory scientists
3. Medical scientists
4. State certified blood transfusion technicians
5. State certified medical laboratory scientists

### PART VII

ENVIRONMENTAL HEALTH PRACTITIONERS COUNCIL OF ZIMBABWE

1. Environmental health officers
2. Environmental health technicians
3. Meat and other foods inspectors

## PART VIII

### MEDICAL REHABILITATION PRACTITIONERS COUNCIL OF ZIMBABWE

1. Occupational therapists
2. Orthopaedic technicians
3. Orthotists
4. Physiotherapists
5. Podiatrists
6. Prosthetists
7. Rehabilitation technicians
8. Speech therapists

### **SECOND SCHEDULE (SECTIONS 5(2), 30(2), 34(2), 38(2), 42(2), 46(2) 50(2), 54(2) AND 58(2))**

#### POWERS OF AUTHORITY AND COUNCILS

1. To lease, purchase, or otherwise acquire, immovable property and to construct buildings thereon.
2. To buy, take in exchange, hire or otherwise acquire movable property, including vehicles, necessary or convenient for the performance of the functions of the Authority or a council, as the case may be.
3. To maintain, alter and improve their property.
4. To sell, exchange, lease, mortgage, dispose of, turn to account or otherwise deal with property, or any part thereof, which is not required for the purposes of the Authority or a council, for such consideration as the Authority or a council, as the case may be, may determine.
5. To insure against losses, damages, risks and liabilities which the Authority or a council, as the case may be, may incur.
6. To invest, in such manner and on such security, if any, as the Authority or a council, as the case may be, may determine, any of its funds which are not immediately required and to vary or realise any investment so made.
7. To borrow to enable the Authority or a council, as the case may be, to carry out any of its functions.
8. Generally, to do all such things as may be necessary, conducive or incidental to the exercise of the functions of the Authority or a council under this Act or any other enactment.