

THE HEALTH PRACTITIONERS ACT No. 5 OF 1983

Arrangement of Sections

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PART 2 - THE HEALTH PRACTITIONERS BOARD

THE BOARD

2. (1) There shall be a board to be known as the Health Practitioners Board consisting of -
- (a) the Director and a Deputy Director; and
 - (b) three members appointed by the Minister one each to be a registered practitioner in -
 - (i) medicine and surgery;
 - (ii) dentistry;
 - (iii) nursing and midwifery.
- (2) The appointed members shall hold office for a term of three years but may be re-appointed; their appointment may be terminated for cause by the Minister at any time.
- (3) The Director or, in his absence, a Deputy Director shall be the chairman of the Board and shall preside at its meetings.
- (4) The appointed members shall serve without remuneration, but may be paid reasonable travelling and other expenses when engaged on the business of the Board.
- (5) The Board may, if it thinks fit so to do, invite any person to take part in its deliberations but such person shall not have the right to vote.
- (6) The Minister shall appoint a public servant to be secretary to the Board.

PROCEEDINGS OF THE BOARD

3. (1) The Director or, in his absence, a Deputy Director and two appointed members shall constitute quorum.
- (2) The Board shall meet at such times and places as the Director or a Deputy Director shall direct.
- (3) The decisions of the Board shall be made by a majority of votes of members present at a meeting; in the event of an equality of votes the chairman shall have a second or casting vote.
- (4) Subject to the provisions of this section the Board shall regulate its own procedure.

PART 3 - REGISTRATION OF HEALTH PRACTITIONERS

BOARD TO MAINTAIN REGISTER

4. (1) It shall be the duty of the Board to prepare and maintain a register for and in respect of each health profession of the names, addresses qualifications and such other particulars as may be prescribed, of all persons who are entitled to be registered under this Act and who apply for registration.

- (2) A person applying for registration shall pay such fee in respect of the application as the Minister may by order prescribe.

QUALIFICATIONS FOR REGISTRATION

5. (1) A person shall be entitled to be registered under this Act if he proves to the satisfaction of the Board -
- (a) in the case of an applicant for registration to practice medicine and surgery or dentistry, that he is the holder of a degree or diploma granted by a recognized university, medical school or similar institution and that he is entitled so to practice in the country in which the degree or diploma was granted:
 - (b) in the case of an applicant for registration to practice any other health profession -
 - (i) that he has such training, skill and practical experience in that profession as, in the opinion of the Board, are together sufficient to practice that profession; and
 - (ii) if the Board so requires, that he has successfully completed a recognized training course in that profession.
- (2) The Board may require an applicant for registration to produce such documents or other evidence relating to his qualifications for registration as the Board shall think fit.

CERTIFICATE OF REGISTRATION

6. (1) Where a person is registered he shall, on payment of such fee as the Minister may by order prescribe, be granted a certificate of registration in the form set out in the Schedule to this Act.
- (2) If the registration is cancelled or suspended the holder of the certificate of registration shall forthwith deliver it up to the secretary.
- (3) A person who contravenes the provision of subsection (2) shall be guilty of an offence.

Penalty: imprisonment for 3 months or fine of 10.000 Vatu or both.

PROVISIONAL REGISTRATION

7. (1) The registration of a person shall be provisional for a period of six months from its date and may be cancelled by the Board at any time during that period if the Board is of the opinion that by reason of his conduct, his character, lack of skill or experience or for similar reasons he is not a suitable person to exercise the health profession in respect of which he is registered.

- (2) For the avoidance of doubt it is hereby declared that after the expiry of the period mentioned in subsection (1) registration may only be cancelled in accordance with the provisions of section 3 or 14(2).

CANCELLATION OF REGISTRATION

8. Without prejudice to the provisions of section 7 the Board may cancel the registration of a person if -
- (a) his registration has been obtained by fraud, misrepresentation or mistake, or
 - (b) he has been convicted of an offence punishable by imprisonment without the option of a fine, or
 - (c) in the opinion of the Board, he is, by reason of a physical or mental incapacity, unable satisfactorily to exercise the health profession in respect of which he is registered.

VISITING DOCTORS ETC.

9. (1) Notwithstanding anything to the contrary contained in this Act, the Board may grant to a person not ordinarily resident in Vanuatu, a temporary certificate which shall entitle that person to practice medicine and surgery or dentistry -
- (a) in such case or class of case, and
 - (b) during such period, not exceeding three months,
- as shall be specified in the certificate.
- (2) Before granting a certificate under this section the Board shall satisfy themselves, so far as it shall be practicable in the circumstances, that the recipient of the certificate is a person qualified for registration in accordance with the provisions of section 5 (1) (a).
- (3) In urgent cases a certificate under this section may be granted by the Director or a Deputy Director.
- (4) A certificate under this section may be revoked by the Board at its discretion at any time.

PART 4 - PROFESSIONAL DISCIPLINE

COMPLAINTS OF UNPROFESSIONAL CONDUCT

10. (1) Any complaint of the conduct of a registered health practitioner in his professional capacity must be made in writing to the Board and must contain specific allegations of acts or omissions on which the complaint is based.
- (2) If, having considered the complaint and having made such other preliminary enquiries (if any) as it thinks fit, the Board is of the opinion that there exists a prima facie case of misconduct the Board shall set up a Disciplinary Committee to deal with the complaint in accordance with this Act.

CONSTITUTION OF DISCIPLINARY COMMITTEE

- 11 (1) A Disciplinary Committee shall consist of -
- (a) the Director or a Deputy Director who shall be the chairman;

- (b) the Attorney General or a law officer nominated by him;
 - (c) not less than two registered practitioners appointed by the Board;
 - (d) not more than two other persons appointed by the Board.
- (2) Where a Disciplinary Committee deals with a complaint against a registered practitioner at least one of the members of the Committee shall be a person registered for or in respect of the same health profession as the practitioner against whom the complaint has been made.
 - (3) The Director shall appoint a public servant to be secretary to a Disciplinary Committee.

PROCEEDINGS IN DISCIPLINARY COMMITTEES

- 12. (1) All matters before a Disciplinary Committee shall be decided by a majority of votes of all its members; in the event of an equality of votes the chairman of the Committee shall have a second or casting vote.
- (2) The attendance of all the members of a Disciplinary Committee shall be required to constitute quorum.
- (3) In any proceedings before a Disciplinary Committee the following rules shall apply -
 - (a) a sufficient notice of the time and place of the hearing together with the particulars of the complaint shall be given to the person against whom the complaint has been made and to the complainant;
 - (b) any party to the proceedings shall, if he so requires, be entitled to be heard by the Committee and to be represented or assisted by a legal practitioner or a registered health practitioner;
 - (c) unless the Committee otherwise directs, the proceedings shall be held in public.

EVIDENCE IN DISCIPLINARY PROCEEDINGS

- 13. (1) A Disciplinary Committee, by notice in writing signed by chairman of the Committee or its secretary, may require any person to attend and give evidence before it at the hearing of any complaint under this Part, and to produce any documents in that person's custody or under his control relating to the subject matter of the complaint.
- (2) A Disciplinary Committee may require evidence to be given on oath, and either orally or in writing, and for that purpose the chairman of the Committee may administer any oath.
- (3) Witnesses and legal practitioners and registered health practitioners referred to in section 12 (3) (b) shall have the same immunities and privileges in relation to proceedings before a Disciplinary Committee as in proceedings in a court of law.
- (4) The secretary to a Disciplinary Committee shall keep the minutes of the proceedings and record the evidence in such manner as the Committee shall direct.

- (5) Any person who without lawful justification refuses or fails to attend and give evidence when required to do so by a Disciplinary Committee, or to answer truly any question put to him, or to produce any document required of him, shall be guilty of an offence.

Penalty: imprisonment for 6 months or fine of 50.000 Vatu or both.

POWERS OF DISCIPLINARY COMMITTEES

14. (1) If a Disciplinary Committee finds that the acts or omissions alleged in the complaint -
- (a) have not been proved to the satisfaction of the Committee; or
 - (b) do not constitute misconduct of the registered practitioner in his professional capacity; or
 - (c) are of trivial nature,
- the Committee shall dismiss the complaint, and may order the complainant to pay such sums, if any, as the Committee shall determine, by way of the costs of the proceedings, or a part thereof, to the Revenue Fund and to the registered practitioner against whom the complaint had been made.
- (2) If a Disciplinary Committee finds a registered practitioner guilty of misconduct in his professional capacity, it may, according to the gravity of the allegations proved in the proceedings, -
- (a) order that his registration be cancelled or suspended for such period not exceeding two years as the Committee shall think fit;
 - (b) reprimand him;
 - (c) order him to pay such sum to the Revenue Fund, as the Committee shall determine, by way of the costs of the proceedings or a part thereof.
- (3) Any sum ordered to be paid under this section may be recovered in a like manner as a civil debt.

PART 5 - MISCELLANEOUS

APPEALS TO THE SUPREME COURT

15. Any person -
- (a) whose application for registration under section 4 has been refused;
 - (b) whose registration has been cancelled under section 7 or 8;
 - (c) whose registration has been cancelled or suspended in pursuance of an order of, or who has been reprimanded by, a Disciplinary Committee, under section 14 may -

within 21 days of the date of the notification to him of such refusal, cancellation, order or reprimand, appeal to the Supreme Court and on any such appeal the Supreme Court may make such order as it thinks just having regard to the merits of the case and the public welfare.

CHEMISTS ETC. NOT AFFECTED BY THE ACT

16. (1) Nothing in this Act shall extend to or affect the lawful occupation, trade or business of pharmacists, druggists or dispensing opticians.
- (2) In subsection (1) "dispensing optician" means a person engaged in the fitting and supply of optical appliances but not in testing of sight.

TRADITIONAL MEDICINE NOT AFFECTED BY THE ACT

17. Nothing in this Act shall extend to or affect the practice in good faith by any person of the traditional medicine of the people of Vanuatu if such person is recognized to be competent to exercise such practice according to custom.

OFFENCES

18. (1) Any person who, not being the holder of a valid certificate of registration, practices or holds himself out to be registered to practice a health profession shall be guilty of an offence.
- (2) Any person who being registered for and in respect of any health profession, practices, or holds himself out as registered to practice a health profession other than that in respect of which he is registered shall be guilty of an offence.
- (3) A person convicted of an offence under subsection (1) or (2) shall be liable to imprisonment for a term not exceeding three years or a fine not exceeding 500.000 Vatu or both such imprisonment and fine.

FEES

19. The Minister may by order prescribe different fees for different health professions in respect of applications for, and certificates of, registration under this Act.

TRANSITIONAL PROVISIONS

20. (1) Notwithstanding anything in this Act to the contrary, it shall be lawful for any health practitioner who has lawfully been in practice as such in Vanuatu immediately before the date of commencement of this Act to continue to exercise such practice for a period of six months after that date.
- (2) The first members to be appointed by the Minister to the Board under section 2 (1) (b) after the date of the commencement of this Act shall be appointed from among health practitioners lawfully in practice as such in Vanuatu immediately before that date.

APPLICATION OF THE ACT

21. The provisions of this Act shall apply in relation to every health practitioner in Vanuatu, whether in private practice or in employment under a contract of service, and if the latter, whether he is employed by the Government, a local authority, or any other body or organisation whatsoever;

Provided that any health practitioner employed by the Government or a local authority or any public organization (whether national or international) and practising exclusively in the course of his employment shall be exempt from the payment of any fees under this Act.

REPEAL

22. Joint Regulation No. 12 of 1953 relating to practice of medicine and ancillary matters is hereby repealed except in so far as it relates to the practice of pharmacists.

COMMENCEMENT

23. This Act shall come into operation on such date as the Minister shall by order appoint.
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REPUBLIC OF VANUATU

MINISTRY OF HEALTH

HEALTH PRACTITIONERS ACT No. OF 1983

CERTIFICATE OF REGISTRATION

This is to certify that

.....
(name and address)

has been registered as a person qualified
and entitled to practice

.....
(description of the health profession)

in accordance with the provisions of section 5 of the
Health Practitioners Act No. of 198 .

By order of the Hea
Practitioners Bo

Chairman

.....

Secretary to the Bo

.....

Port Vila

Date: