

PRESIDENT'S OFFICE

No. 1053.
21 July 1995

NO. 18 OF 1995: MEDICAL, DENTAL AND SUPPLEMENTARY HEALTH SERVICE PROFESSIONS AMENDMENT ACT, 1995.

It is hereby notified that the President has assented to the following Act which is hereby published for general information:-

GENERAL EXPLANATORY NOTE:

- ** ** Words between two asterisks indicate omissions from existing enactments.
- << >> Words between two pointed brackets indicate insertions in existing enactments.

ACT

To amend the Medical, Dental and Supplementary Health Service Professions Act, 1974, so as to insert certain definitions and to amend others; to provide for the establishment, constitution and objects of the Interim National Medical and Dental Council of South Africa; to provide for the abolition of certain medical councils; and to provide for the repeal of certain laws in respect of medical, dental and supplementary professions which remained in force in the various territories of the national territory of the Republic by virtue of section 229 of the Constitution; and to provide for matters connected therewith.

(English text signed by the President.)
(Assented to 10 July 1995.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

Amendment of section 1 of Act 56 of 1974, as amended by section 1 of Act 33 of 1976, section 12 of Act 36 of 1977, section 1 of Act 52 of 1978, section 1 of Act 38 of 1982, section 1 of Act 58 of 1984, section 24 of Act 94 of 1991 and section 1 of Act 58 of 1992

1. Section 1 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (hereinafter referred to as the principal Act), is hereby amended-

- (a) by the insertion before the definition of "council" of the following definition:

" '<<Ciskeian Medical Council' means the Ciskeian Medical Council established by section 2 of the Health Professions and Related Health Practices Act, 1984 (Act No. 36 of 1984) (Ciskei);>>";

- (b) by the insertion after the definition of "dentist" of the following definition:

" '<<'Director-General' means the Director-General: Health or his or her nominee;>>";

- (c) by the substitution for the definition of "Minister" of the following definition:

" 'Minister' means the Minister of **National** Health;";

(d) by the insertion after the definition of "scheduled substance" of the following definition:

" <<'South African Medical and Dental Council' means the South African Medical and Dental Council referred to in section 2 of this Act prior to its amendment by the Medical, Dental and Supplementary Health Service Professions Amendment Act, 1995;>> "; and

(e) by the insertion after the definition of "this Act" of the following definition:

" <<'Transkeian Medical Council' means the Transkeian Medical Council established by section 2 of the Medical, Allied and Supplementary Professions Act, 1976 (Act No. 30 of 1976) (Transkei);>>".

Substitution of heading to Chapter I of Act 56 of 1974

2. The following heading is hereby substituted for the heading to Chapter I of the principal Act:

"**Continued Existence** <<Establishment>> and Objects, Functions and Powers of the **South African Medical and Dental** <<Interim National Medical and Dental>> Council <<of South Africa>>".

Substitution of section 2 of Act 56 of 1974

3. The following section is hereby substituted for section 2 of the principal Act:

"Establishment of Interim National Medical and Dental Council of South Africa

<<2. (1) There is hereby established a juristic person to be known as the Interim National Medical and Dental Council of South Africa and the first meeting of the council shall be convened by the Director-General.

(2) The head office of the council shall be situated in Pretoria.

(3) The council shall, at its first meeting, appoint an acting registrar to perform the functions of the registrar until a registrar is appointed in terms of section 12.>>".

Amendment of section 3 of Act 56 of 1974, as amended by section 2 of Act 58 of 1992

4. Section 3 of the principal Act is hereby amended by the addition of the following paragraphs:

"<<(f) to make recommendations to the Minister on the constitution of a new council within a period not exceeding 24 months calculated as from the date of commencement of the Medical, Dental and Supplementary Health Service Professions Amendment Act, 1995;

(g) to advise the Minister with regard to the amendment or adjustment of this Act in order to support the universal norms and values of the medical profession, with greater emphasis on professional practice, democracy, transparency, equity, accessibility and community involvement.>>".

Substitution of section 5 of Act 56 of 1974, as amended by section 2 of Act 52 of 1978, section 2 of Act 58 of 1984, section 1 of Act 79 of 1990 and section 3 of Act 58 of 1992

5. The following section is hereby substituted for section 5 of the principal Act:

"Constitution of council

<<5. (1) The council shall consist of the following members, appointed by the Minister, namely-

- (a) 15 persons nominated by the South African Medical and Dental Council from its members;
- (b) three persons nominated by the Transkeian Medical Council from its members;
- (c) three persons nominated by the Ciskeian Medical Council from its members;
- (d) the Director-General;
- (e) one dentist;
- (f) one psychologist;
- (g) three persons appointed on account of their knowledge of the law;
- (h) a representative of the health authority of each province;
- (i) four medical practitioners and two dentists nominated by the principals or rectors of universities at which medical or dental faculties have been established: Provided that not more than one medical practitioner or dentist so appointed shall be attached to the staff of any one such university;
- (j) one person registered as a nurse in terms of the Nursing Act, 1978 (Act No. 50 of 1978);
- (k) one person registered as a pharmacist in terms of the Pharmacy Act, 1974 (Act No. 53 of 1974);
- (l) nine persons representing the community.

(2) The councils referred to in subsection (1) (a), (b) and (c), the authorities referred to in subsection (1) (h) and the principals or rectors referred to in subsection (1) (i) shall, within 14 days of the commencement of the Medical, Dental and Supplementary Health Service Professions Amendment Act, 1995, inform the Director-General in writing of the names of the persons nominated by them in terms of the relevant provisions of subsection (1).

(3) (a) If a council referred to in subsection (1) (a), (b) or (c), the authorities referred to in subsection (1) (h) and the principals or rectors referred to in subsection (1) (i) fail to nominate persons in terms of the said provisions or fail to inform the Director-General under subsection (2) of the names of the persons so nominated, the Minister shall appoint qualified persons up to the number required, as members of the council.

(b) The Director-General shall, in the case of a failure contemplated in paragraph (a), immediately inform the Minister thereof in writing.

(4) The Minister shall as soon as possible after the appointment of the members of the council inform the Director-General of the names of

persons appointed by him or her.

(5) The names of the members of the council and the date of commencement of their period of office shall be made known by the Director-General in the Gazette as soon as possible after the constitution of the council.

(6) Subject to the provisions of section 6, the members of the council shall hold office as from the date contemplated in subsection (5) until the date of constitution of a new council, but not exceeding 24 months.>> ".

Amendment of section 6 of Act 56 of 1974, as amended by section 46 of Act 97 of 1986 and section 4 of Act 58 of 1992

6. Section 6 of the principal Act is hereby amended-

(a) by the substitution for paragraph (d) of subsection (1) of the following paragraph:

"<<(d) he or she ceases to hold any qualification necessary for his or her appointment or tenders his or her resignation in writing to the Minister and the Minister accepts his or her resignation;>>"; and

(b) by the substitution for subsection (2) of the following subsection:

"(2) Every vacancy on the council arising from a circumstance referred to in subsection (1) and every vacancy caused by the death of a member, shall be filled by appointment **designation or election, as the case may be, by the person or body by whom and in the manner in which the vacating member was required to be appointed, designated or elected** <<by the Minister of a person nominated by the Council>>, and every member so appointed **designated or elected** shall hold office for the unexpired portion of the period for which the vacating member was appointed **designated or elected**."

Amendment of section 9 of Act 56 of 1974

7. Section 9 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"<<(1) The majority of the members of the council shall constitute a quorum at any meeting of the council.>>".

Amendment of section 10 of Act 56 of 1974, as amended by section 3 of Act 58 of 1984 and section 5 of Act 58 of 1992

8. Section 10 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) There shall be an executive committee of the council consisting of the president, the vice-president, the Director-General **National Health and Population Development (or, in his absence, the officer designated in terms of section 5(2))** and not less than **five** <<seven>> other members of the council designated by the council, of whom not less than three shall be medical practitioners, one shall be a dentist **and one shall be a member appointed under section 5(1) (b) (iv)** <<and two shall be community representatives>>".

Amendment of section 12 of Act 56 of 1974

9. Section 12 of the principal Act is hereby amended-

(a) by the substitution for subsection (1) of the following subsection:

"(1) **Subject to the provisions of subsection (4) the** <<The>> council shall appoint a registrar and may appoint such other persons as it may deem necessary for carrying out its functions under this Act, and may dismiss any of such other persons."; and

(b) by the deletion of subsection (4).

Substitution of section 14 of Act 56 of 1974

10. The following section is hereby substituted for section 14 of the principal Act:

"Minister may rectify defects

14. If anything required to be done under this Act in connection with the appointment **designation or election** of any member is omitted or not done within the time or in the manner required by this Act, the Minister may order all such steps to be taken as may be necessary to rectify the omission or error or may validate anything done in an irregular manner or form, in order to give effect to the objects of this Act."

Amendment of section 15 of Act 56 of 1974, as amended by section 46 of Act 57 of 1975

11. Section 15 of the principal Act is hereby amended by the substitution for subsection (11) of the following subsection:

"(11) The election of members of any professional board established under this section and any election to fill a casual vacancy on such professional board, shall be held mutatis mutandis in accordance with the provisions of this Act relating to the election, contemplated in section 5(1)(e), of members of the council <<prior to the amendment thereof by the Medical, Dental and Supplementary Health Service Professions Amendment Act, 1995.>> "

Substitution of section 63A of Act 56 of 1974, as inserted by section 5 of Act 38 of 1982

12. The following section is hereby substituted for section 63A of the principal Act:

"Abolition of certain councils, and transitional provisions

<<63A. (1) The South African Medical and Dental Council, the Transkeian Medical Council and the Ciskeian Medical Council shall cease to exist on the day immediately preceding the date of the first meeting of the council, and all rights, obligations, assets and liabilities acquired or incurred, as the case may be, by the South African Medical and Dental Council, the Transkeian Medical Council and the Ciskeian Medical Council, shall immediately vest in the council and the council shall be deemed to have acquired or incurred such rights, obligations, assets and liabilities in terms of this Act.

(2) (a) The registrar of deeds concerned shall, at the request of the council and on submission of the relevant title deeds and other documents, make the necessary entries and endorsements in respect of his or her registers and other documents in order to give effect to a transfer in terms of subsection (1).

(b) No transfer duty, stamp duty or other fees shall be payable in respect of such transfer, entry or endorsement.>>".

Substitution of long title of Act 56 of 1974

13. The following long title is hereby substituted for the long title of the principal Act:

"ACT

To **consolidate and amend the laws providing for the establishment of the South African Medical and Dental Council** <<establish the Interim National Medical and Dental Council of South Africa; to provide>> for control over the training of and for the registration of medical practitioners, dentists and practitioners of supplementary health service professions; to provide for control over the training of and for the registration of psychologists; and to provide for matters incidental thereto."

Repeal of laws, and savings

14. (1) Subject to the provisions of this section, the laws mentioned in the second column of the Schedule are repealed as from the date on which the South African Medical and Dental Council, the Transkeian Medical Council and the Ciskeian Medical Council are abolished in terms of section 63A of the principal Act as indicated in the third column of the Schedule, to the extent that such laws were in force immediately prior to the commencement of the Constitution in the various territories of the national territory of the Republic as set out in the fourth column of the Schedule.

(2) Any proclamation, notice, regulation, authorisation, rule or order issued, made, granted or done in terms of a provision of any law repealed in terms of subsection (1) shall, unless it is inconsistent with any provision of the principal Act, be deemed to have been issued, made, granted or done in terms of the corresponding provision of the principal Act, and shall stay in force until cancelled or repealed by the Interim National Medical and Dental Council of South Africa, established by section 2 of the principal Act (in this section referred to as the interim council).

(3) Any registration of a person or any removal of a name from a register or any appointment or anything else done in terms of a provision of any law repealed in terms of subsection (1), shall be deemed to have been done under the principal Act.

(4) Notwithstanding the provisions of subsection (1), any inquiry, including any preliminary investigation undertaken to determine whether prima facie evidence exists which would justify such inquiry, into alleged improper or disgraceful conduct by any person, conducted by a council abolished by section 63A of the principal Act and which has not been concluded at the date of the first meeting of the interim council, shall be continued and concluded by the interim council in accordance with the provisions of the law under which the inquiry was instituted, as if such law had not been repealed.

(5) Notwithstanding the provisions of subsection (1), the interim council shall have the power to institute and conclude disciplinary proceedings under the relevant provisions of the repealed laws in accordance with the procedures as prescribed by regulations made under section 61 of the principal Act, against any person who, at any time prior to the first meeting of the interim council, is alleged to have committed an act which may have constituted improper or disgraceful conduct in terms of the provisions of the repealed laws or any regulation made thereunder: Provided that the interim council shall not institute proceedings against any person unless the nature of the contravention which the person is alleged to have committed in terms of the repealed laws or any regulation made thereunder, substantially corresponds to that of a contravention referred to in corresponding provisions of the principal Act or any regulation made thereunder.

(6) Any act performed or decision taken by the Transkeian Medical Council or the Ciskeian Medical Council, with the exception of acts or decisions relating to pharmacy matters, shall be deemed to have been performed or taken, as the case may be, under the corresponding provisions of the principal Act.

(7) Any person employed by the South African Medical and Dental Council, the Transkeian Medical Council and the Ciskeian Medical Council immediately prior to the date referred to in subsection (1), with the exception of persons concerned with matters with regard to pharmaceutical services, shall be deemed to have been appointed by the interim council in terms of section 12 of the principal Act.

(8) Any person who, immediately prior to the date referred to in subsection (1), was the registrar of the South African Medical and Dental Council, the Transkeian Medical Council or the Ciskeian Medical Council, shall, within 14 days after the commencement of this Act furnish the Director-General: Health with the registers, minutes, financial statements and any other relevant documents of their respective councils.

(9) In this section "South African Medical and Dental Council", "Transkeian Medical Council" and "Ciskeian Medical Council" shall mean the South African Medical and Dental Council, the Transkeian Medical Council and the Ciskeian Medical Council, as defined in section 1 of the principal Act, respectively.

Extension of application of Act 56 of 1974

15. The principal Act, as it was in force immediately prior to the commencement of this Act in the national territory of the Republic excluding the areas which comprised the former Republics of Transkei, Bophuthatswana, Venda and Ciskei and the areas which comprised the territories declared under section 26 of the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971), to be self-governing territories, shall, from the date referred to in section 14(1), apply also in those areas.

General provision

16. During the period of existence of the Interim National Medical and Dental Council of South Africa, established by section 2 of the principal Act, the name "South African Medical and Dental Council" shall be deemed to be the name of the interim council for the purposes of the issue of certificates, diplomas and distinguishing devices and its use on letterheads or on any other place where the name of the interim council is used.

Short title and commencement

17. This Act shall be called the Medical, Dental and Supplementary Health Service Professions Amendment Act, 1995, and shall come into operation immediately after the commencement of the Pharmacy Amendment Act, 1995.

SCHEDULE

LAWS REPEALED BY SECTION 14

NUMBER AND YEAR OF LAW	SHORT TITLE	EXTENT OF REPEAL	AREA IN RESPECT OF WHICH LAW IS REPEALED
Act No. 56 of 1974	Medical, Dental and Supplementary-Health Service Professions Act, 1974	The whole	The territory of the former Republic of Venda and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu, KwaNdebele and KaNgwane

Act No. 57 of 1975	General Law Amendment Act, 1975	Sections 46, 47 and 48	The territory of the former Republic of Venda and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu, KwaNdebele and KaNgwane
Act No. 30 of 1976 (Transkei)	Medical, Allied and Supplementary Professions Act, 1976 (Transkei)	The whole	The territory of the former Republic of Transkei
Act No. 33 of 1976	Medical, Dental and Supplementary Health Service Pro- fessions Amend- ment Act, 1976	The whole	The territory of the former Republic of Venda and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu, KwaNdebele and KaNgwane
Act No. 36 of 1977	Health Laws Amendment Act, 1977	Sections 12 up to and including 18	The territory of the former Republic of Venda and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu, KwaNdebele and KaNgwane
NUMBER AND YEAR OF LAW	SHORT TITLE	EXTENT OF REPEAL	AREA IN RESPECT OF WHICH LAW IS REPEALED
Act No. 31 of 1978 (Transkei)	Medical, Allied and Supplementary Pro- fessions Amend- ment Act, 1978 (Transkei)	The whole	The territory of the former Republic of Transkei
Act No. 52 of 1978	Medical, Dental and Supplementary Health Service Pro- fessions Amend- ment Act, 1978	The whole	The territory of the former Republic of Venda and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu, KwaNdebele and KaNgwane
Act No. 43 of 1980	Medical, Dental and Supplementary Health Service Pro- fessions Amend- ment Act, 1980	The whole	The territories of the former self-governing territories of KwaNdebele and KaNgwane
Act No. 66 of 1981	Medical, Dental and Supplementary Health Service Pro- fessions Amend- ment Act, 1981	The whole	The territory of the former self-governing territory of KaNgwane
Act No. 15 of 1982 (Transkei)	Health Professions and Related Health Practices Amend- ment Act, 1982 (Transkei)	The whole	The territory of the former Republic of Transkei

NUMBER AND YEAR OF LAW	SHORT TITLE	EXTENT OF REPEAL	AREA IN RESPECT OF WHICH LAW IS REPEALED
Act No. 38 of 1982	Medical, Dental and Supplementary Health Service Professions Amendment Act, 1982	The whole	The territory of the former self-governing territory of KaNgwane
Act No. 15 of 1983 (Transkei)	General Law Amendment Act, 1983 (Transkei)	Section 7	The territory of the former Republic of Transkei
Act No. 36 of 1984 (Ciskei)	Health Professions and Related Health Practices Act, 1984 (Ciskei)	The whole	The territory of the former Republic of Ciskei
Act No. 25 of 1985 (Transkei)	Health Laws Amendment Act, 1985 (Transkei)	Sections 7, 8, 9 and 10	The territory of the former Republic of Transkei
Act No. 33 of 1985 (Bophuthatswana)	Health and Related Professions Act, 1985 (Bophuthatswana)	Chapter 3	The territory of the former Republic of Bophuthatswana
Act No. 14 of 1987 (Transkei)	Medical, Allied and Supplementary Professions Amendment Act, 1987 (Transkei)	The whole	The territory of the former Republic of Transkei