

## Footnotes

1. See Declaration of Alma Ata, ICPHC/ALA/CONF.DOC./1 Rev. 1, pp.18-20 (1978).
2. Fendall, The Medicine of Poverty or What are People For? paper presented at Fourth Commonwealth Medical Conference, p.11 (1974).
3. Paxman, Lee and Hopkins, Expanded Roles for Non-physicians in Fertility Regulation: Legal Perspectives, n.4, p.53. Law and Population Monograph Series No. 41 (1976).
4. The Concise Oxford Dictionary, p.43 (5th ed. 1975).
5. Ibid., p.879.
6. Chowdhury and Chowdhury, Medical highlights -- the role of midwives and paramedics in voluntary sterilization programs, in M Schima and I Lubell (eds), New Advances in Sterilization, p.205 (New York: Association for Voluntary Sterilization, 1976).
7. These were suggested by Miller, The training and supervision of non-physicians in the delivery of family planning services in J. M. Paxman (ed.) Policies and Programmes for Utilizing in Non-Physician Personnel in the Delivery of Family Planning Services, p. 23 (Kuala Lumpur: IGCC, 1979). Papers and proceedings of an IPPF/IGCC Workshop in Pattaya, Thailand, 13-15 December 1978.
8. Paramedical Professions Act, 1975-5 (Barbados), First Schedule. See also the Regulations issued under section 32 of the Medical Dental Practitioner's Act, 1970 (Swaziland) which speaks of 'paramedical practitioners' and covers such personnel as chiropodists, diagnostic radiographers, dietitians, food inspectors, health inspectors, masseurs, medical technologists, optometrists, orthopaedic mechanics and surgical appliance makers. The word is given a similar meaning in Australia. State Grants (Paramedical Services) Act, 1969.
9. Fendall, note 2 above.
10. WHO, World Health Statistics, vol. III, pp. 54-57 (1977).
11. Ibid., p. 73.
12. Interview: Dr Haldan Mahler, People, vol. 1, no. 1, pp. 10-12 (1973).
13. WHO, note 10 above, pp. 72-74.
14. Fendall, Auxiliaries in Health Care, p. 91 (Baltimore: The Johns Hopkins Press, 1972).

15. See British Medical Association, Report of Panel on Primary Health Care Teams, pp. 23-31 (1974).

16. For evidence of this in the field of family planning see Paxman, Lee and Hopkins, note 3 above, pp. 9-11.

17. Ibid.

18. See discussion below, pp.14 and 17.

19. Ibid.

20. See discussion below, pp.14 and 17.

21. Section 11.

22. Section 2 (e).

23. Section 20.

24. Section 38.

25. Section 35.

26. Ibid.

27. Section 27.

28. Hendrick, Forms of limited practice under the medical practice act, University of Miami Law Review, vol. 26, p. 805 (1972).

29. Section 34. Similar exemptions apply to those who practise "natural therapeutics", though the range of the services they provide is usually carefully prescribed. In Swaziland, for example, those types of practitioners (chiropractors, homeopaths, naturopaths and electropaths) cannot: a) perform any surgical operation or administer any injection to any person; b) practise midwifery; withdraw blood from any person; c) treat or offer to treat cancer or prescribe a remedy for cancer or claim that any article, apparatus or substance will or maybe of value for the alleviation of the effects of the curing or treatment of cancer; e) perform any internal examinations on any person; . . . . The Control of Natural Therapeutic Practitioners Regulations, 1978, Regulation 10(1).

30. Medical Practitioners and Dentists Act, 1977, Section 26.

31. Section 41(b). A similarly worded section appears in the Nurses and Midwives Decree, 1972.

32. Ayurvedic Act (No. 31) of 1961.

33. Ayurvedic Medical Council Notice of 5 October 1970.

34. Udupa, The ayurvedic system of medicine in India, in Health by the People, K. W. Newell ed. pp. 53, 59-63 (Geneva: WHO, 1975).

35. The Nurses Act, 1950 as revised 1969, section 3 (Malaysia).
36. Zambia Registered Nurses Rules, Rule 21.
37. Nurses Registration Ordinance (Hong Kong), as amended 1970, sections 8, 14.
38. Nurses Act 1977, section 17.
39. Indian Nursing Council Act, 1947 (Act No. 48) as amended 1957, section 15A.
40. Nurses and Midwives (Registration) Act, 1973-10, sections 5(1), 16 and 20(1).
41. The Nurses Act, 1973, section 36.
- 41A. Nurses Regulations, 1971, Regulation 12(2) Fourth Schedule.
42. Nurses Act, 1934, Section 33(d). A similar situation exists in Uttar Pradesh (India) where Rule 4 on nursing practice says "The duties of a health visitor shall be such as prescribed by the Public Health Department." The recently repealed section 4(1)(b) of the Midwives Act, 1951 gave the Midwifery Board in the UK the power to make rules "regulating supervising and restricting within due limits the practice of certified midwives".
43. Stein (compiler), Inventory of Nursing Rules and Regulations, pp. 8-10 (New Delhi: The Trained Nurses Association of India, 1970).
44. Rules for Midwives, Rule 14; Rules for Health Visitors, Rule 5.
45. Nurses Registration Amendment Regulations, 1971, section 35(3) (Serial No. 46 of 1971). Statutes on midwifery do protect the profession though. In New Zealand any person who is not "a registered midwife, a registered obstetric nurse or registered comprehensive nurse" who "carries out obstetric nursing in any case where a medical practitioner has undertaken responsibility for the care of the patient" is subject to prosecution. Nursing Act, 1977, section 54(1)(b). The Nurses, Midwives and Nursing Assistants Act, 1978 in St Vincent contains a rather extraordinary clause which forbids anyone not registered to "act as a midwife, or act in attendance on a woman giving birth, whether or not for fee or reward". The penalty imposed is a fine not to exceed 500 dollars. Section 15(1). There is, however, a defence available to those charged if it can be shown that "in all the circumstances it was not possible, or the defendant took all reasonable steps, to secure the services of a midwife".
46. Ibid., section 35(1).
47. Nurses Registration Act, 1968, section 24.
- 47a. This is the view expressed in the UK Notices Concerning a Midwife's Code of Practice, 1978. The Code takes the view that there is no need to detail the sorts of treatment which are outside the province of midwifery as with modern developments the list would have to be amended frequently. Notice No. 2

48. These drugs are listed in Schedule IV of the Medicines (Prescription Only) Order, 1977.
49. Midwives Regulations, section 81.
50. The Nurses' Registration Amendment Regulations 1971, section 38(3). In New Zealand any person who must carry out "obstetric nursing" in an emergency is not subject to the sanctions imposed under the statute. Nurses Act, 1977, section 54(2)(a).
51. de Lourdes Verderese, Traditional Birth Attendant in Maternal and Child Health and Family Planning, WHO Doc. No. HMD/NUR/74.1 (1974). In St. Vincent midwives over the age of 30 who, though unregistered, have been practising for at least 10 years prior to 1978 are exempted from the sanctions imposed under the law. Nurses, Midwives and Nursing Assistants Act, 1978 section 15(3).
52. Section 16(5).
53. The Nurses and Midwives Rules, section 26(2).
54. Sections 6 and 12.
55. Sections 3 and 5.
- 55a. Medical Practitioners and Dentists Act, section 22.
56. Medical Profession Act, section 65.
57. Medical Act, 1972, section 13.
58. Cooper v National Motor Bearing Co., 146 Cal. App. 2d 229, 238 (1955).
59. Section 28(1).
60. Section 11(1)(c).
61. Nurses, Midwives and Health Visitors Act, section 22.
62. Medical Practitioners and Dentists Act, 1977, section 22.
63. Ibid., section 14.
64. Ibid., section 15.
65. Section 22.
66. Medical Ordinance, section 41.
67. Medical Profession Act, section 68a.
68. Medical Act, 1971, section 33(e).
- 68a. Pharmacy and Drug Act, section 14(1).
69. Notes on fieldtrip to Malaysia, 11-17 July 1976.

70. Percy, Charlesworth on Negligence, paragraph 295. London: Sweet and Maxwell (5th ed.) 1971.

71. This was the view taken more than half a century before. See Rudlock v Lowe [1865] 4 F & F 519.

72. James, General Principles of the Law of Torts, p.196 (London: Butterworths, 3d ed., 1969).

73. Marshall v Lindsey C.C. [1935] 1 K.B. 516, 540 per Maughan, L.J.

74. See Hillyer v Governors of St Bartholomew's Hospital, [1909] 2 K.B. 820. Hillyer is no longer good law.

75. Nathan and Barrowclough, Medical Negligence, pp. 132-33 (London: Butterworths, 1957).

76. Rosenfield, Modern medicine and the delivery of health services: lessons from the developing world, Man and medicine, vol. 2, no. 4, p. 279 (1977).

77. Ibid., p. 285.

78. Jelliffe and Jelliffe, Nutrition programmes for pre-school children, American Journal of Clinical Nutrition, vol. 25, p. 595, (1972).

78a. These in their turn prevent anyone other than a registered pharmacist, or someone under his direct supervision, from compounding, preparing, mixing or dispensing "any medicine on the prescription of a medical practitioner". The Pharmacy Act, 1948, as modified to 1975, section 42(1). Doctors, of course, may dispense to their own patients.

79. Paxman and Cook, Law and planned parenthood in Potts and Bhiwandiwalla, eds., Birth Control -- An International Assessment (Lancaster: Medical Technology Press, 1979).

79a. The Medical and Dental Decree, 1972 in Ghana would permit paramedicals, if licensed by the Director-General of Health Services, to give "injections of drugs into the skin, subcutaneous tissues, muscles or veins of persons". Section 41(c). In Zambia the syllabus for nursing contains this note on immunizations and vaccination. The training is "restricted to the execution as directed, and specifically exclude(s) subsequent assessment." Zambia Registered Nurses (Training) Rules, 1968, Fourth Schedule.

80. Chowdhury and Chowdhury, note 6 above. See also Shattock and Fendall, The role of the paramedical in voluntary sterilization and menstrual regulation, in The Symposium on Law and Population, pp. 140-168 (New York: UNFPA, 1974).

81. Lady health visitors are utilized as MR service providers after two weeks' training. See Summary of Group Discussion in Paxman, note 7 above.

82. Where doctors have over a period of time often delegated tasks to certain paramedicals the delegation becomes accepted as acceptable medical practice.

83. Health-care lessons from international experience, New England Journal of Medicine, vol. 290, p.1376 (1974).

84. Nurses, Midwives and Health Visitors (Midwives) Regulations, section 33.

85. Section 9(1B).

86. Personal communication with Dr. Fred T. Sai.

87. The Nurses (Amendment) Act, 1975).

88. This was the approach taken in the recently enacted Nurses, Midwives and Health Visitors Act, 1979, in order to manage the interests of groups like the midwives. Sections 3 and 4.

89. British Medical Association, Report of the Panel on Primary Health Care Teams (1974).

90. Note 12 above, p. 10.

91. Indeed, in some countries the Medical Council controls the paramedical cadres as it has the authority to make rules affecting nursing training and practice. See Medical and Allied Professions Act, 1965, sections 32 and 33.

ANNEX A

Kenya Gazette Supplement No. 74 (Acts No. 6)



THE REPUBLIC OF KENYA

**KENYA GAZETTE SUPPLEMENT**  
**ACTS, 1977**

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**NAIROBI, 11th NOVEMBER, 1977**

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**THE MEDICAL PRACTITIONERS AND DENTISTS  
ACT, 1977**

**No. 20 of 1977**

*Date of Assent: 8th November, 1977*

*Date of Commencement: By Notice*

**ARRANGEMENT OF SECTIONS**

*Section*

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Construction of terms in any written law.
- 4—The Medical Practitioners and Dentists Board.
- 5—Registrar and register.
- 6—Registration of medical practitioners and dentists.
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- 22—Penalty for unregistered and unlicensed person practising.
- 23—Rules.
- 24—Attorney-General's consent.
- 25—Finance.
- 26—Repeal of Cap. 253 and savings.

**An Act of Parliament to consolidate and amend the law to make provision for the registration of medical practitioners and dentists and for purposes connected therewith and incidental thereto**

ENACTED by the Parliament of Kenya as follows:—

Short title and commencement.

1. This Act may be cited as the Medical Practitioners and Dentists Act, 1977, and shall come into operation on such day as the Minister may, by notice in the Gazette, appoint.

Interpretation.

2. In this Act, unless the context otherwise requires—

“Board” means the Medical Practitioners and Dentists Board constituted under section 4 of this Act;

“dental practitioner” and “dentist” means any person registered under this Act as a dentist;

“dentistry” and “dental services” include the performance of any such operation and the giving of any such treatment, advice or attendance as is usually performed or given by dentists, and any operation or any treatment, advice or attendance on or to any person preparatory to or for the purpose of or in connection with the fitting, insertion or fixing of artificial teeth;

“medical practitioner” means any person registered under this Act as a medical practitioner;

“private practice” means the practice of medicine or of dentistry, as the case may be, for a fee either in kind or cash;

“private practitioner” means a person registered under this Act as either a medical practitioner or a dentist who is also licensed under section 15 of this Act to practise medicine or dentistry for fees either in cash or in kind;

“register” means the register of medical practitioners and dentists which the Registrar is required by section 5 of this Act to keep;

“Registrar” means the Registrar of Medical Practitioners and Dentists constituted by section 5 of this Act.

3. The words "legally qualified medical practitioner", "duly qualified medical practitioner" or any words importing a person recognized by law as a medical practitioner or a member of the medical profession, when used in any written law with reference to such person, shall be construed to mean a person registered as a medical practitioner under this Act or, where the context so admits, a person who is licensed by the Board under section 13 of this Act.

Construction of terms in any written law.

4. (1) For the purposes of this Act, there shall be constituted a Board to be known as the Medical Practitioners and Dentists Board, which will consist of the following members, all of whom shall be either medical or dental practitioners of good character and good standing—

The Medical Practitioners and Dentists Board.

- (a) the Chairman, to be appointed by the Minister;
- (b) the Director of Medical Services or the person for the time being acting in that post;
- (c) a Deputy Director of Medical Services, to be nominated by the Minister;
- (d) four medical practitioners to be nominated by the Minister;
- (e) a representative of the Faculty of Medicine of the University of Nairobi who shall be nominated by the Faculty Board; and
- (f) five medical practitioners and two dentists, who shall be elected by the votes respectively of all medical practitioners and of all dentists at the prescribed times and in the prescribed manner:

Provided that notwithstanding the provisions of this subsection, the Minister may, if at any time it appears to him that the Board has failed to carry out any of its functions under this Act in the national interest, revoke or annul the appointment, nomination or election of any member of the Board and may himself nominate a new member in the place of such member for the remainder of the period of office of such member under subsection (3) of this section.

(2) The Board shall elect a Deputy Chairman from amongst its members.

(3) The members referred to in paragraphs (a), (c), (d), (e) and (f) of subsection (1) of this section shall hold office for a period of three years from the date of their appointment, nomination or election, as the case may be, but shall be eligible for re-appointment, re-nomination or re-election.

(4) The Chairman or, in his absence, the Deputy Chairman shall preside at all meetings of the Board and, in the absence for any reason of both the Chairman and the Deputy Chairman, the other members of the Board who are present at any meeting shall choose one of the members to act as chairman at that meeting.

(5) Each member of the Board shall have a deliberative vote and the Chairman for the time being at any meeting of the Board shall, in addition to his deliberative vote as a member of the Board, have a casting vote.

(6) If any member of the Board, other than the Chairman, the Director of Medical Services or the Deputy Director of Medical Services nominated under paragraph (c) of subsection (1) of this section, is temporarily incapacitated by illness or is otherwise prevented from performing his duties as a member thereof, the Board may appoint a medical or dental practitioner to act in the place of such member during his incapacity or absence.

(7) When any member, who has been appointed, nominated or elected under paragraph (a), (c), (d), (e) or (f) of subsection (1) of this section, dies or resigns from the Board, or is otherwise permanently unable to attend meetings of the Board, the Minister may, after consulting the Board, appoint a medical or a dental practitioner to act as a member of the Board until such time as a permanent member is appointed, nominated or elected to fill the vacancy.

(8) Seven members of the Board (including the chairman of the meeting) shall constitute a quorum at any meeting of the Board, and all acts, matters or things authorized or required to be done by the Board may be decided at any meeting at which a quorum is present.

(9) The powers of the Board shall not be affected by any vacancy in the membership thereof.

(10) The Board shall meet at least once in every three months.

(11) The Chairman or, in his absence, the Deputy Chairman, shall convene a meeting of the Board on receiving written requests by at least five of its members.

(12) A member of the Board who absents himself from two consecutive meetings without prior permission from the Chairman or, in his absence, from the Deputy Chairman, shall automatically lose his place on the Board and the vacancy so created may be filled temporarily in accordance with subsection (7) of this section.

(13) The Chairman or, in his absence, the Deputy Chairman, may, with prior approval of the Board, appoint suitable persons, who may be persons employed in the public service, to assist in carrying out particular decisions of the Board or particular duties or investigations for the Board.

(14) Subject to the provisions of the Act and to any rule as to procedure made under section 23 of this Act, the Board shall have power to regulate its own procedures.

5. (1) For the purpose of this Act, there shall be a Registrar of Medical Practitioners and Dentists.

Registrar and register.

(2) The Director of Medical Services shall be the Registrar, and shall perform such duties in connection with the register as are prescribed by this Act.

(3) The Registrar shall keep a register of medical practitioners and dentists in the prescribed form.

6. (1) Every person eligible to be registered as a medical practitioner or as a dentist may apply in the prescribed form to the Registrar for registration in the register, and every such application shall be accompanied by the prescribed fee.

Registration of medical practitioners and dentists.

(2) Where any person has complied with the provisions of subsection (1) of this section and has been accepted by the Board as being eligible for registration and has satisfied the Registrar that he has been so accepted, he shall be registered.

7. The Registrar shall issue to every person registered under this Act, a certificate in the prescribed form.

Certificate of registration.

8. (1) The Registrar shall from time to time make any necessary alterations and corrections in the register in relation to any entry therein.

Correction of register.

(2) The Registrar shall remove from the register—

(a) the name of every deceased person;

(b) the name of every person convicted of an offence under section 19 of this Act;

(c) the name of every person whose name the Board has under section 20 of this Act directed should be struck off the register; and

(d) any entry which has been incorrectly or fraudulently made in the register.

(3) (a) The Registrar, with the consent of the person concerned, may remove from the register the name of a person who has ceased to practise.

(b) The Registrar shall, not later than 1st July in each year, send by registered post to every person registered in the register a notice inquiring whether or not such person has ceased to practise or has changed his address, and, if no answer is returned to the inquiry within six months from the posting thereof, the name of that person may be removed from the register.

(c) Any name removed under this subsection may, at the request of the person concerned and on payment of the prescribed fee, be reinstated by the Registrar.

(4) It shall be the duty of the Registrar-General of Births and Deaths to notify the Registrar of the death of any registered medical practitioner or dentist.

Publication of register.

9. (1) The Registrar shall publish in the Gazette as soon as may be practicable after registration the name of every medical practitioner or dentist registered in the register.

(2) The Registrar shall once in every year, as soon as convenient after 1st January, but not later than 31st March, publish in the Gazette, a list containing the names, qualifications and registered addresses of all registered medical and dental practitioners.

(3) It shall be the duty of every medical and dental practitioner to inform the Registrar immediately of any change in his registered address.

Publication prima facie evidence of registration.

10. (1) The publication of the list of registered medical and dental practitioners in the Gazette shall be *prima facie* evidence that the persons named therein are registered under

this Act, and the absence of the name of any person from such list shall be *prima facie* evidence that such person is not so registered.

(2) All register books and all copies thereof or extracts therefrom certified under the hand of the Registrar shall be receivable in evidence in all courts.

11. (1) Subject to the provisions of this section, a person shall be eligible for registration under this Act as a medical or dental practitioner if he is the holder of a degree, diploma or other qualification which is recognized by the Board as making him eligible for registration, and—

Persons eligible to be registered as medical or dental practitioners.

(a) after obtaining such degree, diploma or other qualification, he has engaged in training employment in a resident medical capacity in one or more institutions approved by the Board for such period, being not less than one year, as the Board may approve; and

(b) he satisfies the Board that, whilst engaged in training employment under paragraph (a) of this subsection, he has acquired sufficient knowledge of, and experience in, the practice of medicine or dentistry, as the case may be; and

(c) he satisfies the Board that he is a person of good moral character and a fit and proper person to be registered under this Act.

(2) In any case where the Board does not recognize a degree, diploma or other qualification in medicine or dentistry held by any person as making him eligible for registration, it shall take steps to assess his suitability for registration and for the purpose of so doing may require him to attend any interview and to undergo any oral or written examination.

(3) The Board may, after assessing the suitability for registration of a person under subsection (2) of this section, direct that before registration he shall undergo such further period of training or pass such further examination as it may specify.

(4) The Board shall not authorize the registration of any person until it is satisfied that the requirements of subsection (1) of this section have been fulfilled or, in the case of any person referred to in subsection (2) of this section, that the

requirement of paragraphs (a), (b) and (c) of subsection (1) have been fulfilled and that any further period of training or examination directed by it under subsection (3) has been completed or passed.

(5) The Board may, where it considers it expedient so to do, delegate the assessment of suitability for registration under subsection (2) of this section to a committee of the Board which shall, after making such assessment, make recommendations to the Board accordingly.

Person registered may have additional qualifications inserted in register.

12. Every person registered under this Act who has obtained any higher degree or qualification than the qualification in respect of which he has been registered shall be entitled to have such higher degree or additional qualification inserted in the register in substitution for or in addition to the qualification previously registered, on the payment of the prescribed fee.

Licensing of persons to render medical or dental services.

13. (1) Notwithstanding any of the other provisions of this Act, the Board may, if it is satisfied that it is in the public interest to do so, confer upon any person who is not otherwise eligible to be registered as a medical practitioner or as a dentist under the provisions of this Act, by the issue, under the signature of the Director of Medical Services, of a licence to do so, the right to render medical or dental services.

(2) Every such licence shall be for such period and may contain such conditions as the Director of Medical Services shall, with the consent or on the instruction of the Board, impose.

(3) Any licence issued under this section may be cancelled or revoked and withdrawn at any time by the Director of Medical Services with the consent or on the instructions of the Board.

Effects of registration and licence under section 13.

14. (1) Registration as a medical practitioner or a dentist under this Act, or the granting of a licence under section 13 of this Act, shall only entitle the person so registered or so licensed to practise medicine or dentistry or to render medical or dental services, as the case may be, in a salaried post under a Government or Local Government health scheme or in such salaried posts in such institutions as the Board may from time to time approve.

(2) No medical practitioner or dentist shall act as or engage in private practice as a private practitioner or may be employed by a private practitioner, unless he holds a licence to engage in private practice under the provisions of section 15 of this Act.

15. (1) The Board may authorize the Registrar to issue to a medical practitioner or a dentist who has applied in the prescribed form and whom the Board considers has had suitable working experience in medicine or in dentistry, as the case may be, a licence to engage in private practice on his own behalf as a private practitioner or to be employed, either whole time or part time, by a private practitioner.

Licence for private practice.

(2) The Registrar shall issue, on payment of the prescribed fee, a licence in the prescribed form to persons who are authorized by the Board under subsection (1) of this section.

(3) Such licences shall be granted for a period of one year at a time and shall state whether the person so licensed may practise as a private practitioner on his own behalf or may be employed by a private practitioner.

(4) The Board may refuse to issue or to renew a licence to engage in private practice to any person and may withdraw any such licence it has issued.

(5) No premises may be habitually used for the purposes of private practice unless they are authorized for such use by the Board.

(6) Any person aggrieved by any decision of the Board under this section may appeal to the High Court, and in any such appeal the High Court may annul or vary the decision as it thinks fit.

16. The issue and the cancellation, revocation or withdrawal of any licence under section 13 or section 15 of this Act shall be published in the Gazette.

Licences to be published in Gazette.

17. No person shall be entitled to recover any charge for any medical or surgical advice or attendance, or for the performance of any operation as a medical practitioner or dentist, or for any medicine which he has prescribed and supplied as a medical practitioner or dentist, unless he is at the time appropriately licensed under section 15 of this Act.

No fees recoverable unless person licensed under section 15.

Certificate not valid unless signatory registered, etc.

18. No certificate or other document required by law to be signed by a duly qualified medical or dental practitioner shall be valid unless signed by a person registered as a medical or dental practitioner under this Act or, where the context so admits, by a person who is licensed by the Board under section 13 of this Act.

Penalty for fraudulently procuring registration or licence.

19. Any person who wilfully procures or attempts to procure himself to be registered or licensed under any of the provisions of this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration either orally or in writing, and any person aiding or assisting him therein, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding twelve months, or to both such fine and such imprisonment; and if any person convicted of an offence under this section is registered or licensed under this Act the Registrar shall forthwith remove the name of such person from the register or cancel his licence, as the case may be.

Disciplinary proceedings.

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20. (1) If any medical practitioner or dentist registered or any person licensed under this Act is convicted of any offence under this Act or under the Penal Code, whether the offence was committed before or after the coming into operation of this Act, or is, after inquiry by the Board, found to have been guilty of any infamous or disgraceful conduct in a professional respect, either before or after the coming into operation of this Act, the Board may, subject to subsection (9) of this section, remove the name of such person from the register or cancel any licence granted to such person, as the case may be.

(2) Upon any inquiry held by the Board under subsection (1) of this section the person whose conduct is being inquired into shall be afforded an opportunity of being heard, either in person or by an advocate.

(3) For the purpose of proceedings at any inquiry held by the Board, the Board may administer oaths and may, subject to the provisions of any rules made under section 23 of this Act, enforce the attendance of persons as witnesses and the production of books and documents.

(4) Subject to the foregoing provisions of this section and to any rules as to procedure made under section 23 of

this Act, the Board shall have power to regulate its own procedure in any disciplinary proceedings,

(5) The power to direct the removal of the name of a person from the register or to cancel the licence of any person shall include a power exercisable in like manner to direct that during such period as may be specified in the order the registration of a person's name in the register or the licence granted to him shall not have effect.

(6) Any person aggrieved by any decision of the Board under the provisions of this section may appeal within thirty days to the High Court and in any such appeal the High Court may annul or vary the decision as it thinks fit.

(7) The provisions of this section, in so far as they relate to the cancellation or suspension of licences, shall be in addition to and not in derogation of the provisions of section 13 or 15 of this Act.

(8) Any person who fails when summoned by the Board to attend as a witness or to produce any books or documents which he is required to produce shall be guilty of an offence and liable to a fine of two thousand shillings or to imprisonment for one month.

(9) Notwithstanding the provisions of subsection (8) of section 4, the Board shall not remove the name of any person from the register, or cancel any licence granted to any person, under subsection (1) of this section unless at least ten members of the Board so decide.

**21.** (1) Where the name of any person has been removed from the register, the name of that person shall not, subject to the provisions of this Act, be again entered in the register except by order of the Board.

*Effect of removal, cancellation or suspension.*

(2) Where an order has been made for the removal of a person's name from the register, or for suspending the effect of a person's registration under this Act, or for cancelling or suspending a licence granted to a person under this Act, the Board may either on its own motion or on the application of the person concerned, and in either case after holding such inquiry as the Board thinks fit, cause the name of that person to be restored to the register or terminate the suspension of the registration, or, as the case may be, grant a new licence or terminate the suspension of the existing licence, in any such case either without fee or on the payment of such fee, not exceeding the appropriate registration or licence fee, as the Board may determine.

(3) Subsection (1) of this section shall not apply when a person's name has been removed from the register at his request or with his consent in circumstances under which it could not have been removed without consent, and the name of such person shall on his application and on the payment of the prescribed fee, if any, be restored to the register.

Penalty for  
unregistered  
and unlicensed  
person  
practising.

22. Any person who wilfully and falsely takes or uses any name, title or addition implying a qualification to practise medicine or surgery or dentistry, or, who, not being registered or licensed under this Act, practises or professes to practise or publishes his name as practising medicine or surgery or dentistry or who, not being licensed under section 15 of this Act, practises as a private practitioner, shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings, or in default of payment to imprisonment for a term not exceeding twelve months:

Provided that nothing in this section contained shall make it an offence for any person in the service of—

- (i) the Medical Department of the Government; or
- (ii) any hospital, dispensary or similar institution which the Director of Medical Services, by notice in the Gazette, declares to be an approved institution for the purposes of this section,

to render medical assistance in the course of his duties in such service or for a person to carry out treatment under the direction, supervision and control of a medical practitioner or a dentist or of a person licensed under section 13.

Rules.

23. The Minister, after consultation with the Board, may make rules generally for the better carrying out of the provisions of this Act, and any such rules may, without prejudice to the generality of the foregoing power—

- (a) prescribe anything required by this Act to be prescribed;
- (b) provide for the procedure to be followed by the Board in any inquiry under section 20 of this Act;
- (c) provide for enforcing the attendance of witnesses and the production of books and documents at any inquiry held by the Board;
- (d) prescribe any forms to be used in connection with this Act or any fees to be charged under the provisions of this Act.

24. A prosecution for an offence under this Act shall not be instituted in any court without the written consent of the Attorney-General.

Attorney-  
General's  
consent.

25. The Minister may, with the consent of the Treasury, out of money provided by Parliament—

Finance.

- (a) make to the Board such grants as may be necessary to enable it to discharge its functions under this Act;
- (b) pay remuneration and travelling and other allowances to the members of the Board (other than members who are public officers in receipt of a salary);
- (c) make such other payments as may be necessary to give effect to the provisions of this Act.

26. (1) The Medical Practitioners and Dentists Act, hereinafter referred to as the repealed Act, is hereby repealed.

Repeal of  
Cap. 253 and  
savings.

(2) Notwithstanding any of the other provisions of this Act, any person whose name is registered as a medical practitioner or as a dentist, as the case may be, under the provisions of the repealed Act immediately before the date of the coming into operation of this Act, and whose name was not then the subject of an order to be struck off or removed from the register under the repealed Act, shall be entitled to be registered, on the payment of the prescribed fee, as a medical practitioner or as a dentist, as the case may be, under this Act.

(3) Notwithstanding any of the other provisions of this Act, any person who, immediately before the coming into operation of this Act, is both registered as a medical practitioner or as a dentist, as the case may be, and is engaged whole time in private practice and whose name was not then the subject of an order to be struck off or removed from the register under the repealed Act, shall be entitled to a licence to engage in private practice under this Act.

(4) For the avoidance of doubt, it is hereby declared that once a person is registered, or a licence is granted to a person, in consequence of the provisions of subsection (2) or (3) of this section, all the provisions of this Act shall apply to such person as if he had been first registered or licensed under this Act.

ANNEX B

*Supplement to Official Gazette dated 31st May, 1973.*

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**NURSES AND MIDWIVES (REGISTRATION)  
ACT, 1973-10**

*Arrangement of Sections*

**Part I**

**PRELIMINARY**

*Section*

1. Short title
2. Interpretation
3. Establishment of Council
4. Council to report to and advise Minister

**Part II**

**NURSES**

5. Nurses' Register
6. Registration of existing Nurses
7. First registration
8. Exemptions
9. Certificate of Registration to be issued by Council
10. Practising Certificate and annual registration
11. Penalty for late payment of annual registration fee
12. Effect of refusal or failure to pay annual registration fee
13. Exemption of whole time public officials from payment of registration fee
14. Additional qualifications
15. Publication of lists of nurses

(ii)

**Part III**

**MIDWIVES**

16. Midwives' Register
17. Application of Part II
18. Conditions as to registration of midwives
19. Duties of midwife in cases of emergency

**Part IV**

**NURSING ASSISTANTS**

20. Nursing Assistants' Roll
21. First enrolment
22. Application of sections 9 to 15

**Part V**

**MISCELLANEOUS**

23. Examinations
24. Disciplinary proceedings
25. Suspension from practice pending disciplinary proceedings
26. Secretary to notify Registrar of Council's decision to suspend registration or enrolment or to remove name from register or roll
27. Restoration of name to register or roll and publication in *Official Gazette*

(iii)

28. Secretary to notify person affected by Council's decision under section 24 (2)
  29. Appeals
  30. Regulations
  31. Badges and uniforms
  32. Offences
  33. Performance of nursing or midwifery services in cases of emergency
  34. Exemption from liability
  35. Recovery of unpaid registration or enrolment fees
  36. Payment of fees into Consolidated Fund
  37. Expenses
  38. Repeal of Act 1932-1
  39. Commencement
- SCHEDULE

BARBADOS

I assent  
A. WINSTON SCOTT  
Governor-General  
3rd May, 1973.

1973 – 10

*An Act to repeal the Midwives and Nurses Registration Act, 1932 and make new provision for the registration of nurses and midwives and for the enrolment of nursing assistants and for connected purposes.*

(By Proclamation). Commencement.

ENACTED by the Parliament of Barbados as follows:-

## Part I

### *Preliminary*

- |                |  |
|----------------|--|
| Short title.   | 1. This Act may be cited as the Nurses and Midwives (Registration) Act, 1973.  |
| Interpretation | 2.(1) For the purposes of this Act –   |
| 1971-10.       | <p>“Council” means the General Nursing Council established by section 3;</p> <p>“medical practitioner” has the same meaning as in section 2 of the Medical Registration Act, 1971;</p> <p>“Minister” means the Minister responsible for health;</p> <p>“midwife” means a person whose name appears on the Midwives’ Register;</p> <p>“nurse” means a person whose name appears on the Nurses’ Register;</p> <p>“nursing assistant” means a person whose name appears on the Nursing Assistants’ Roll;</p> <p>“Practising Certificate” means a certificate issued under section 10;</p> <p>“register” means the appropriate register to be kept by the Registrar under section 5 or 16, as the case may be;</p> |

“roll” means the Nursing Assistants’ Roll to be kept by the Registrar under section 19;

“Registrar” means the Registrar of the Supreme Court;

“Secretary” means the person for the time being performing the functions of Secretary to the Council.

(2) A reference in this Act to a female person includes a reference to a male person.

3.(1) For the purposes of this Act there is hereby established a Council to be known as the General Nursing Council.

Establishment of Council.

(2) The Council shall be a body corporate and section 21 of the Interpretation Act, 1966 applies thereto.

(3) The provisions of the Schedule shall have effect with respect to the constitution of the Council and otherwise in relation thereto.

Schedule.

4. The Council shall –

- (a) as soon as practicable after the beginning of each year submit to the Minister a report of its activities during the preceding year; and
- (b) advise the Minister on matters relating to nursing care for the sick

Council to report to and advise Minister.

and injured and midwifery services in Barbados, and in particular on the establishment of a suitable recruitment and training programme for the maintenance of such nursing care and midwifery services.

## Part II

### *Nurses*

5.(1) The Registrar shall keep a register to be known as the Nurses' Register in which he shall cause to be entered the name of every person required by section 6 or entitled under section 7 to be registered as a nurse together with the following particulars in respect of each such person -

**Nurses'  
Register.**

- (a) her full name and address;
- (b) the date of her registration;
- (c) a description and the date of the qualification in respect of which she is registered.

(2) The Nurses' Register shall be divided or classified in a manner approved by the Council respecting nurses qualified to practise general nursing, psychiatric nursing or such other branch of nursing as the Council determines.

(3) The Nurses' Register shall at all reasonable times be open to inspection at the Registration Office.

(4) The Registrar shall make such alterations in the addresses and qualifications of nurses as are

necessary and shall remove from the Nurses' Register the name of any nurse who is deceased or no longer qualified to practise nursing in Barbados.

**Registration  
of existing  
nurses.**

1932-1.

6. The Registrar shall immediately upon the commencement of this Act cause to be entered in the Nurses' Register the particulars specified in paragraphs (a), (b) and (c) of section 5(1) of all persons who immediately before such commencement were registered under the Midwives and Nurses Registration Act, 1932 without application on the part of such persons and without the payment of any fee and pending such entry those persons shall be deemed to be nurses.

**First  
Registration.**

7.(1) Any person who after the commencement of this Act applies to the Council to be registered as a nurse who satisfies the Council —

- (a) that she is qualified to be so registered; and
- (b) that she is a fit and proper person to practise nursing in Barbados; and
- (c) that she is of the prescribed age, is entitled upon compliance with the requirements of this Act and on payment of the prescribed fee to be registered as a nurse.

(2) Subject to subsection (6) a person is qualified to be registered as a nurse who —

- (a) has completed the prescribed course of training at a place of training in Barbados recognised by the Council and has passed the prescribed examinations; or
- (b) holds a diploma, certificate or other status or form of recognition granted in a place outside Barbados by a duly constituted body empowered by the law of that place to confer authority to practise nursing and which is recognised by the Council as being equivalent to the qualification required by paragraph (a).

(3) The Council may, with the approval of the Minister recognise -

- (a) any hospital, school or institution as a place of training for the purposes of paragraph (a) of subsection (2);
- (b) any diploma, certificate or other status or form for the purposes of paragraph (b) of subsection (2).

(4) An application for registration shall be made in the form approved by the Council.

(5) An applicant for registration shall furnish to the Secretary -

- (a) evidence of her qualifications;
- (b) proof of her identity; and
- (c) such further and other information as the Council requires in respect of the matters referred to in paragraphs (b) and (c) of subsection (1).

**Power of Council to require examination.**

(6) The Council may require an applicant for registration under paragraph (b) of subsection (2) to submit to examination in such subjects as it considers necessary to establish that she possesses satisfactory nursing training.

**Exemptions.**

8. Where the Council is satisfied that a person although not qualified to be registered under section 7(1) has completed such training, whether in Barbados or elsewhere, as in its opinion may be recognised as part of the qualification for registration under paragraph (a) of that section, the Council may, upon the application of that person, direct that she be exempted from any part of the prescribed course of training mentioned in that paragraph and that she be registered upon compliance with any conditions as to further training and the passing of examinations as the Council thinks fit and upon payment of the prescribed fee.

**Certificate of Registration to be issued by Council.**

9.(1) Where the Council is satisfied that a person is registered under section 7(1), the Council shall issue to that person a certificate of registration.

(2) Where the Council refuses to approve the registration of any person as a nurse under section 7(1), the Secretary shall immediately give written notice of that refusal to the person affected.

(3) A certificate of registration issued under subsection (1) shall be in such form as the Council approves and shall remain in force until it is suspended or cancelled by the Council.

10.(1) The Registrar shall, in respect of the registration of a person under section 7(1), issue to that person a certificate to be called a Practising Certificate.

Practising Certificate and annual registration.

(2) A nurse who desires to practise as such in Barbados in any year shall, in the month of January in that year, apply to the Registrar for a Practising Certificate, and the Registrar shall on payment of the prescribed annual registration fee issue to her a Practising Certificate.

(3) Where a nurse applies to the Registrar for a Practising Certificate in a month other than January, the Registrar shall on payment of the additional sum imposed by section 11 issue to her a Practising Certificate.

(4) A Practising Certificate is valid for the year in which it is issued and expires on the 31st January of the ensuing year.

(5) The annual registration fee payable under this Act becomes due and payable on the 1st January in each year.

Penalty for late payment of annual registration fee.

11. Any person required by section 10 to pay an annual registration fee who fails to pay such fee during the month of January in any year shall, in respect of her registration for that year, pay to the Registrar in addition to the registration fee payable under section 10 a sum equal to such fee.

Effect of refusal or failure to pay annual registration fee.

12. Any person who –

(a) is required by section 10 to pay an annual registration fee; and

(b) refuses or fails to pay such fee after one month from the date on which such fee becomes payable,

shall be treated as not being registered for the purposes of the Act.

Exemption of wholetime public officials from payments of registration fee.

13. No fee shall be payable in respect of registration under this Act of any person who is employed on a wholetime basis in the public service.

Additional qualifications.

14. A nurse who obtains a qualification approved by the Council as higher than or additional to that in respect of which she is registered is entitled without the payment of any fee to have such higher or additional qualification entered by the Registrar in the register in substitution for or in ad-

dition to, as the case may be, the qualification in respect of which she is registered.

15.(1) The Registrar shall cause to be published in the *Official Gazette* -

Publication of  
lists of nurses.

- (a) in the month of February in every year an alphabetical list of persons who have at 31st January in that year registered their names as required by section 10;
- (b) as soon as practicable after such registration the name of any person registering her name as a nurse after 31st January in any year.

(2) A copy of the *Official Gazette* containing the lists referred to in paragraph (a) of subsection (1) or the name of any person published pursuant to paragraph (b) of that subsection is *prima facie* evidence in any court of the registration and qualifications of any person mentioned in the lists or of the person, as the case may be, and such lists are *prima facie* evidence of the non-registration of any person whose name is not shown therein.

### Part III

#### *Midwives*

Midwives'  
Register.

16. The Registrar shall keep a register to be known as the Midwives' Register.

Application of  
Part II.

17. Part II applies *mutatis mutandis* to the Midwives' Register as it applies to the Nurses' Register and to midwives as it applies to nurses.

Conditions as to  
registration of  
midwives.

18. The Council may attach such terms and conditions with respect to the registration of midwives as it thinks fit.

Duties of mid-  
wife in cases of  
emergency.

19.(1) Where it is reasonable to believe that a case of emergency involving a patient exists, a midwife shall —

- (a) call a medical practitioner to her assistance; or
- (b) cause the patient to be conveyed to a hospital,

and if the patient is certified by a Welfare Officer to be unable to pay any fee involved, such fee shall be paid out of moneys voted for the purpose by Parliament.

(2) The midwife shall immediately report to the Chief Medical Officer each such case of emergency, furnishing such information as the Chief Medical Officer requires.

(3) The Minister or a person authorised by him for the purpose may recover any fee paid under subsection (1) as a debt due to the Crown in Civil proceedings before a Magistrate for District "A", from the patient, husband or guardian of the patient.

**Part IV***Nursing Assistants***Nursing Assistants' Roll.**

20.(1) The Registrar shall keep a Roll to be known as the Nursing Assistants' Roll in which he shall cause to be entered the name of every person entitled to be enrolled as a nursing assistant together with the following particulars in respect of each such person –

- (a) her full name and address;
- (b) the date of her enrolment;
- (c) a description and the date of qualification in respect of which she is enrolled.

(2) Subsections (3) and (4) of section 5 apply to the Nursing Assistants' Roll as they apply to the Nurses' Register.

**First enrolment.**

21(1) Any person who, after the commencement of this Act applies to the Council to be enrolled as a nursing assistant, and who satisfies the Council –

- (a) that she is qualified to be so enrolled;

- (b) that she is a fit and proper person to practise as a nursing assistant; and
- (c) that she is of the prescribed age,

is entitled, upon compliance with the requirements of this Act and on payment of the prescribed fee, to be enrolled as a nursing assistant.

(2) For the purposes of subsection (1) a person is qualified to be enrolled as a nursing assistant who -

- (a) has completed a course of training approved by the Council; and
- (b) has passed the prescribed examination.

(3) Notwithstanding subsection (2) a person who -

- (a) prior to the commencement of this Act has been engaged in the practice of nursing under conditions which the Council considers satisfactory to establish her qualifications as a nursing assistant; or
- (b) is registered, licensed or otherwise entitled to practise as a nursing assistant, a nurse aide or under any other

designation, the training for which is in the opinion of the Council equivalent to that of a nursing aide in Barbados,

may apply to the Council to be enrolled and the Council may in its absolute discretion require the applicant to submit to examination in such subjects as it considers necessary to establish that she possesses satisfactory training as a nursing assistant.

Application of sections 9 to 15.

22. Sections 9 to 15 apply *mutatis mutandis* to nursing assistants as they apply to nurses.

## Part V

### *Miscellaneous*

23.(1) For the purposes of any examination required under this Act, the Council shall appoint a Board of Examiners, in this section referred to as the Board, consisting of such persons as it thinks fit to set and conduct the examination in such subjects as the Council directs and to report its findings to the Council.

Examinations.

(2) The Council shall fix a time and place for holding the examination and the Secretary shall notify a candidate of that time and place.

(3) A candidate shall pay to the Secretary such examination fee as may be determined by the Council with the approval of the Minister.

(4) If, as a result of the examination, the Board finds that a candidate is sufficiently informed and skilled in the subjects in which she was examined, she shall be deemed, on the receipt by the Council of the report of such findings, to have satisfied the Council that she is qualified to be registered under this Act.

(5) Where the Board reports to the Council that a candidate is unsuccessful in the examination,

she shall not, unless the Board so recommends, be permitted to present herself for further examination until the expiration of 6 months from the date of the examination in which she is unsuccessful.

(6) A candidate who is unsuccessful in an examination under this section, shall before being permitted to sit for further examination, comply with such conditions as the Council directs including the payment to the Secretary of such further fee as may be determined by the Council with the approval of the Minister.

(7) Members of the Board shall for each examination receive such fees as may be determined by the Council with the approval of the Minister.

Disciplinary  
proceedings.

24.(1) A nurse, midwife or nursing assistant who –

- (a) is convicted of an offence outside Barbados which if committed in Barbados would be punishable on indictment; or
- (b) is convicted of such offence in Barbados; or
- (c) is alleged to be guilty of professional misconduct,

is subject to disciplinary proceedings.

(2) If, in any such proceedings, the Council is satisfied that a nurse, midwife or nursing assistant is convicted of an offence under paragraph (a) or (b) of subsection (1) or that she is guilty of professional misconduct, it may –

- (a) censure her;
- (b) suspend her registration or enrolment, as the case may be, for a period not exceeding one year;
- (c) direct the Registrar to remove her name from the Register or Roll, as the case may be.

25. If in the opinion of the Council it is expedient or dangerous or against the public interest or not in the interest of the health of a patient that a nurse, midwife or nursing assistant should continue to practise pending the institution of disciplinary proceedings, the Council may suspend the registration of such nurse or midwife, or the enrolment of such nursing assistant, as the case may be.

**Suspension from practice pending disciplinary proceedings.**

26. Where the Council under section 24 or 25 suspends the registration of a nurse or midwife, or the enrolment of a nursing assistant, or under section 24 directs the removal of her name from the register or roll, the Secretary shall immediately give written notice to the Registrar of that suspension or direction.

**Secretary to notify Registrar of Council's decision to suspend registration of enrolment or to remove name from register or roll.**

Restoration of name to register or roll and publication in *Official Gazette*.

27.(1) The Council may, at any time, direct the Registrar to restore to the register or roll, as the case may be, the name of any person removed therefrom under section 24(2).

(2) When the name of any person is removed from the register or roll, as the case may be, the Council may, in writing require such person to return to the Council her certificate of registration or enrolment, as the case may be, and such person shall comply with that requirement.

(3) The Registrar shall, as soon as practicable after receiving a notice under section 26 or a direction under section 27(1), cause a notice thereof to be published in the *Official Gazette*.

Secretary to notify person affected by Council's decision under section 24(2).

28. The Secretary shall immediately give written notice to the person affected by a decision of the Council under section 24(2) to –

- (a) censure her;
- (b) suspend her registration or enrolment;  
or
- (c) direct the Registrar to remove her name from the register or roll.

Appeals.

29.(1) Subject to subsection (4) any person who is aggrieved by refusal of the Council to register or

enrol her under this Act or by its decision to censure her or suspend her registration or enrolment as the case may be, or cause her name to be removed from the register or roll, as the case may be, may, within 3 months of the receipt by her of any such notice, appeal to a Judge in chambers whose decision shall be final.

(2) The Council may, pending an appeal under subsection (1) of any person aggrieved by its decision to suspend her registration or enrolment, as the case may be, or cause her name to be removed from the register or roll, as the case may be, on the application of that person, suspend the operation of any such decision until the determination of the appeal.

(3) The Judge may –

- (a) on the hearing of an appeal against refusal of registration or enrolment, dismiss the appeal or allow the appeal and direct the Council to cause the registration or enrolment to be effected;
- (b) on the hearing of an appeal other than an appeal against refusal of registration or enrolment, as the case may be –
  - (i) dismiss the appeal and confirm the decision of the Council, or

- (ii) allow the appeal and set aside the decision of the Council, or
- (iii) allow the appeal and direct that the disciplinary proceedings in respect of which the decision of the Council is made be reconducted by the Council, or
- (iv) set aside the penalty imposed by the Council and impose in substitution therefor such other penalty under section 24(2) as he thinks fit.

(4) Notwithstanding subsection (1) no appeal shall be made under this section against refusal of an application for registration or enrolment, as the case may be, in a case in which such registration or enrolment is conditional upon the applicant's satisfying the Council that she is qualified to be registered or enrolled as the case may be.

**Rules and  
Regulations.**

30.(1) Subject to the approval of the Minister, the Council may make rules for any of the following purposes -

- (a) the proper conduct of its affairs including the time, manner and place of meeting and the proceedings thereof;

- (b) prescribing the conditions and qualifications for the admission to training of persons as nurses, midwives or nursing assistants;
- (c) prescribing syllabuses of study and programmes of training to be followed at recognised places of training or affiliated places of training in respect of nurses, midwives and nursing assistants;
- (d) prescribing the fees to be paid by candidates for, and regulating the conduct of, examinations to be passed as a condition of admission to registration as a nurse or midwife, as the case may be, or enrolment as a nursing assistant;
- (e) regulating and defining the nature of the services to be performed by nurses, midwives and nursing assistants;
- (f) prescribing the minimum number of hours of instructions constituting the course of training for nursing assistants;
- (g) providing for enrolment as nursing assistants of persons trained or partly

trained as such outside Barbados and the conditions for such enrolment;

- (h) the conduct of examinations and matters relating thereto and the fees to be paid for such examinations;
- (i) the determination of professional conduct and general fitness to practise as a nurse, midwife or nursing assistant, as the case may be;
- (j) the institution of disciplinary proceedings in relation to any charge under section 24 and the manner in which such proceedings are conducted;

(2) Without prejudice to subsection (1), the Minister may make regulations generally for carrying out the provisions of this Act and for any of the following purposes –

- (a) prescribing the fees to be paid for registration or enrolment and the fees to be paid annually for any of the purposes of this Act;
- (b) prescribing anything not mentioned in subsection (1) that is by this Act required to be prescribed.

31. The Council may approve the letters or symbols indicating the registration or enrolment, as the case may be, of a nurse, midwife, or nursing assistant.

Badges and uniforms.

32.(1) Any person who, for the purpose of procuring or attempting to procure the registration or enrolment under this Act, as the case may be, of herself or for any other person, makes or produces or causes to be made or produced any fraudulent representation or declaration either verbally, in writing or otherwise, is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding 3 months or both.

Offences.

(2) A person, not being a nurse, midwife or nursing assistant, who –

- (a) assumes or uses any name, title or description implying that she is entitled to be recognised or to practise;
- (b) advertises or holds herself out as a person authorised or qualified to practise; or
- (c) practises,

as a nurse, midwife or nursing assistant, as the case may be, is guilty of an offence under this Act and liable on summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding 3 months or both.

Performance of nursing or midwifery services in cases of emergency.  
Exemption from liability.

33. Nothing in this Act prevents a person from performing in cases of emergency nursing or midwifery services without hire, gain or hope of reward.

34. Nothing done by any member of the Council, the Secretary or any person acting under the authority of either of them, shall, if such thing was done *bona fide* for the purposes of this Act or the regulations, subject any such person to any action, liability, claim or demand.

Recovery of unpaid registration or enrolment fees.

35. Without prejudice to sections 11 and 32(2) any registration or enrolment fee payable under this Act which remains unpaid for one month from the date on which such fee becomes payable may be recovered as a debt due to the Crown in Civil proceedings before a Magistrate for District "A".

Payment of fees into Consolidated Fund.

36. All fees collected by the Registrar or Secretary under this Act shall be paid into the Consolidated Fund.

Expenses.

37. Any expenses incurred by the Council in the performance of its functions under this Act and regulations shall be defrayed out of moneys voted for the purpose by Parliament.

Repeal of Act 1932-1.

38. The Midwives and Nurses Registration Act, 1932 is repealed.

Commencement.

39. This Act shall come into operation on such day as the Governor-General may appoint by proclamation.

## SCHEDULE

(Section 3)

1. Subject to paragraph 3, the General Nursing Council shall consist of -

- (a) the following persons *ex officio*
  - (i) the Chief Medical Officer;
  - (ii) six persons to be appointed by the Minister from among those officers in the Government Service who hold the most senior posts in the Nursing Administration and Nursing Education;
- (b) 4 members of the Registered Nurses Association appointed by the Minister on the nomination of the Association;
- (c) 1 member of an association of medical practitioners approved by the Minister and appointed by the Minister on the nomination of that association; and
- (d) 1 senior technical officer of the Ministry of Education appointed by the Minister of Education.

2. The Council may -

- (a) appoint such committees composed of members of the council and persons not being members of the council nor registered or enrolled under this Act, for the proper carrying out of its functions;
- (b) delegate to such committees any functions it considers necessary.

3.(1) Members of the Council other than *ex officio* members shall hold office for 2 years but are eligible for re-appointment.

(2) Notwithstanding paragraph (1) no member other than an *ex officio* member shall hold office for more than 2 consecutive terms but such member is eligible for re-appointment after the expiration of 1 year thereafter.

4. (1) The Minister shall appoint a member of the Council to preside as chairman of the first meeting of the Council.

(2) The Council shall elect from among its members a chairman and deputy chairman for a term of 2 years and each such person shall be eligible for re-election.

(3) In the absence of the chairman or deputy chairman, the Council shall elect one of the members present to be chairman of that meeting.

5. 5 members of the Council shall form a quorum.

ANNEX C

The Nurses and Midwives Rules, 1973  
section 18(1) (Barbados)

18. (1) A midwife may in the course of her duties

- (a) administer orally, or by subcutaneous or intramuscular injection or by inhalation as may be appropriate, analgesics, oxytocics and sedatives (including those with a tranquillising effect);
- (b) suture perineal tears of the first degree;
- (c) prescribe dietary supplements;
- (d) in cases of grave emergency only –
  - (i) perform an episiotomy for the relief of maternal or foetal distress;
  - (ii) remove a placenta manually;
  - (iii) in multiple births, perform external version and artificial rupture of the membranes;
  - (iv) administer intravenously electrolyte solutions, plasma, plasma substitutes or oxytocics.

(2) A midwife may not –

- (a) administer any anaesthetic substance except by inhalation from a machine approved in writing by the Chief Medical Officer for the use of midwives;
- (b) administer any blood transfusion except in accordance with the written instructions of a registered medical practitioner;
- (c) perform internal version; or
- (d) perform any instrumental delivery.

The Nurses and Midwives Regulations, 1971  
section 29(1) (Bahamas)

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Functions of  
registered  
midwives

- 29.(1) The functions of registered midwives shall be
- (a)(i) to administer barbituates and other sedatives, including those with a tranquilizing effect, narcotics, oxytocics, and analgesics whether orally, by inhalation, or by injection; and
  - (ii) to induce labour by medication: under the direct supervision of a registered medical practitioner;
  - (b)(i) to administer ergometrin, bromide and analgesics whether orally, by inhalation, or by intra-muscular injection;
  - (ii) to prescribe dietary supplements such as iron, calcium, vitamins and milk protein supplements;
  - (iii) to induce labour by administering oil, enema and bath; and
  - (iv) to perform suture of perineal tear of the first degree on her own initiative and judgement;
  - (c)(i) to perform an episiotomy to relieve maternal or foetal distress;
  - (ii) to remove placenta manually;
  - (iii) to perform, in multiple births, external version and artificial rupture of the membrane; and
  - (iv) to administer a saline or electrolyte solution, intradex or ergometrin intravenously in cases of grave emergency.
- (2) Notwithstanding anything contained in paragraph (1) of this regulation, a registered midwife shall not –
- (a) administer anaesthetics –
    - (i) by inhalation except by an anaesthetic machine approved by the Minister in writing for the use of midwives;
    - (ii) intravenously;
    - (iii) by local application or pudental block;
  - (b) except in accordance with the written order of a registered medical practitioner, administer blood transfusions;
  - (c) perform internal version;
  - (d) perform delivery by forceps or vacuum extractor.

ANNEX D

NURSES' BOARD FOR GHANA

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DETAILS OF THE PRACTICE OF NURSES AS  
PERMITTED UNDER SECTION 10 (D) (K) OF THE  
NURSES' ORDINANCE, No. 20 OF 1966

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SCHEDULE 8. (*Regulations 29, 30, 31 and 32*)

PRACTICE OF NURSES

*Treatments which a Nurse may perform without Instructions from  
a Doctor*

1. Care and cleanliness of all nursing equipment.
2. Sterilization of surgical equipment.
3. Washing of patient.
4. Prevention and treatment of bedsores.
5. Cleaning patient of pediculi.
6. Making of patient's bed.
7. Cooking and serving patient's food.
8. Cleaning mouth of patient. Administration of mouth washes and gargles.
9. Giving treatments for reduction of pyrexia, tepid and cold sponging but not administration of anti-pyretic drugs, except aspirin, phenacetin.
10. Administration of evacuant enemata, soap and water, olive oil, glycerine.
11. Administration of evacuant suppository, viz. glycerine but not of suppositories containing dangerous drugs or poisons.
12. Administration of the following aperients; (Saline) Mist Alba, Magnesium Sulphate, Sodium Sulphate, Potassium Tartrate or any proprietary preparation of these.  

(Vegetable) Cascara Sagrada, Senna or proprietary preparations containing these.

Mineral Oils, Liquid Paraffin.
13. Administration of antacid drugs for relief of gastric pains—Sodium bi-carbonate, carbonate, magnesium trisilicate, aluminium hydroxide or proprietary preparations of these.
14. Administration of drugs for relief of flatulence: Peppermint.
15. Administration of common drugs for the relief of pain— aspirin, but not of any drug listed in the Dangerous Drugs Ordinance or Poisons Schedules.

16. Giving of moist inhalation for laryngitis, tracheitis, pharyngitis, or nasal sinus infections.
17. Application of simple liniments.
18. Irrigation of eyes.
19. Application of cold to a part—cold compress, ice bag.
20. Application of heat to a part—hot water bottles, electric pad, medical fomentation, turpentine stupe, soda stupe but not belladonna or opium stupes.
21. Surgical fomentation.
22. Application of cataplasm or poultice to painful part—Cataplasma Kaolini Co.
23. Make blood films for diagnosis of malaria. (The nurse may not, without sanction of a Doctor, withdraw blood through a hollow needle or any other contrivance for the purpose of making blood tests.)
24. Disinfection of utensils, clothing, bedding, furniture, excreta of patients.
25. Give usual nursing and first aid treatments for relief of shock.—Warmth; elevation of legs; rectal saline with glucose.
26. Withdraw urine by catheter; (Qualified Mental Nurse may only use Rubber Catheter.)
27. Arrest haemorrhage by use of pad and bandage, digital pressure or tourniquet.
28. Give first aid treatment for cleaning of a wound.
29. Apply first aid to fractures, sprains, muscle injuries, by using splints, slings, bandages or sandbags.
30. Performance of artificial respiration in an emergency.
31. First aid treatment for removal of foreign body from eye.
32. Giving of first aid treatment for snake bite or insect stings.
33. Giving of first aid to a woman in labour if no midwife or Doctor is available.
34. Giving of first aid to patients having fits or convulsions.
35. Administration of demulcent drinks; common antidotes and antagonists against poisons and administration of such stimulants as coffee in cases of collapse following poisoning.
36. Giving first aid treatment for burns but not applying Sclerosing agents to burnt areas without sanction of Doctor.
37. Performance of last offices.
38. Keeping of the various charts.

**Treatment which a Nurse may perform only with Sanction of a Registered Medical Practitioner (not necessarily in His Presence), given in writing and dated on the patient's Treatment form**

39. Artificial feeding by oesophageal or nasal routes.
40. Administration of any drug ordered by a Registered Medical Practitioner.

This includes: —

Oral administration.

Rectal Administration.

Hypodermic injection.

Intra-muscular injection.

Intravenous injection (but not intravenous administration of blood, plasma).

Applications to eyes.

Applications to ears.

Applications to throat.

Applications to vagina.

Applications to urethra.

Applications to skin.

Administration by inhalation (but not anaesthetics except in the presence of a Registered Medical Practitioner).

A nurse may not administer drugs or anaesthetics by the intra-theical route.

41. Obtaining of specimens of infective material from throat, nose, eyes, urethra, cervix, using appliances for the purpose.
42. Examination of urine with a view to providing data for doctor to form a diagnosis.
43. Preparation for major operations on any part of the body, except in an emergency.
44. Performance of minor operations such as incision of boils or insertion of sutures in wounds.
45. Application of strapping or elastoplast or other skin adherent for temporary treatment of fractures. Putting on of Plaster of Paris.
46. Application of radiant heat, except in an emergency.
47. Performance of diaphoretic treatment such as hot packing.
48. Blistering and cupping.
49. Lavage of stomach, colon, bladder.
50. Vaginal douching.
51. Dressing of operation and other wounds including removal of stitches, clips, drainage tubes, etc.

**Treatment which Nurses may Perform only in Presence of a Registered Medical Practitioner and with his Sanction.**

52. Administration of anaesthetics.
-

## Suggested Primary Health Care Tasks for Paramedicals\*

### 1. Medical Care Paramedicals

1. Screen patients for referral care.
2. Take patient history, examine, diagnosis and prescribe.
3. Render treatment including injections and dressings.
4. Provide elementary nursing.
5. Attend to in-patients.
6. Suture wounds.
7. Reduce dislocations and splint simple fractures.
8. Perform minor out-patient surgery.
9. Administer local anaesthetics.
10. Extract teeth.
11. Perform catheterization.
12. Diagnose common eye diseases.
13. Diagnose common ear, nose and throat diseases.
14. Vaccinate.
15. Immunize.
16. Sterilize equipment and dressing.
17. Diagnose and treat selective mental diseases.
18. Diagnose and treat selective dental diseases.
19. Diagnose and treat malnutrition, including rehydration.
20. Perform vasectomy.
21. Counsel patients.
22. Issue, complete and file case notes and cards.
23. Instruct patients in family planning methods (male particularly)
24. Maintain surgery in clean and aseptic conditions.
25. Account, record and inventory supplies.

\* Adapted from Siraj-ul-Haq and Fendall, Primary Health Care in Rural Areas of Pakistan, pp. 20-22 (Islamabad: Planning Commission, Government of Pakistan, 1974).

26. Visit and treat patients at home.
27. Undertake follow-up visiting.
28. Render first aid.
29. Perform resuscitation.
30. Manage epileptiform convulsions.
31. Administer the health unit.
32. Organize referral clinics and carry out the instructions of the professional staff.
33. Render reports as instructed.
34. Examine urine and stools, stain and examine blood slides and sputum for A.F.B.
35. Take blood pressure.

## II. Midwife-Paediatic Paramedicals

### A. Midwifery

1. Organize maternity clinics.
2. Perform antenatal and postnatal examination.
3. Vaginal and rectal examination.
4. Attend to normal deliveries.
5. Diagnose and treat puerperal infections.
6. Take blood pressure.
7. Examine urine.
8. Measure haemoglobin - Talquist.
9. Diagnose and treat common complications of pregnancy including pre-eclampsia.
10. Suture 1st and 2nd degree tear.
11. Administer local anaesthetic.
12. Manage A.P.H.
13. Manage P.P.H.
14. Manage minor obstetrical complications and emergencies.
15. Recognize and refer gynaecological abnormalities.

16. Recognize and refer obstetrical abnormalities.
  17. Take care of the maternity cases admitted for observations, delivery or referral.
- B. Infant and Child Care
1. Organize infant and child care clinics.
  2. Diagnose and treat common infant ailments.
  3. Diagnose and treat common childhood diseases.
  4. Organize and manage well-baby clinics.
  5. Perform vaccinations.
  6. Perform immunizations.
  7. Diagnose and treat malnutrition.
  8. Undertake nutrition counselling.
- C. Family Planning
1. Conduct and organize family planning clinics.
  2. Advise and instruct on family planning methods.
  3. Screen and refer clients.
  4. Insert I.U.D.
  5. Issue oral contraception and monitor clients.
  6. Motivate clients and community.
  7. Provide follow-up services to acceptors.
  8. Make home visits and counsel.
- D. General
1. Undertake family and community counselling.
  2. Issue, complete and file case notes.
  3. Note, check, prepare and transmit routine reports.
  4. Sterilization of equipment and dressing.
  5. Management of wards for maternity (where appropriate).
  6. Care of the handicapped children.
  7. Care of the aged and infirm.

### III. Communicable Disease Auxillary

1. Diagnose and treat common infectious and vector borne diseases.
2. Perform vaccinations.
3. Perform immunizations.
4. Maintain epidemic surveillance.
5. Undertake community epidemic prevention and control.
6. Carry out specific disease control programmes under instructions e.g. tuberculosis, smallpox, malaria, leprosy and trachoma.
7. Carry out community survey - epidemiological and local.
8. Record births and deaths and collect and maintain records of other vital statistics as instructed.
9. Undertake the village census.
10. Undertake sanitary survey e.g. water supply, housing and conservancy.
11. Undertake school health surveys.
12. Undertake school medical clinics.
13. Prepare case findings and provide defaulter tracing and retrieval regarding communicable diseases.
14. Counsel on family and community communicable disease.
15. Counsel and motivate community on family planning.
16. Advise and instruct on family planning methods (male particularly).
17. Perform vasectomies.
18. Advise, instruct and perform simple improvements in village sanitary conditions (water, conservancy, housing and pest control).

FIJI

ACT No. 11 OF 1978

25



I assent.

[L.S.]

G. K. CAKOBAU

Governor-General

5th October 1978

**AN ACT**

**TO MAKE PROVISION FOR THE REGISTRATION AND CONTROL OF MEDICAL ASSISTANTS**

[1st January 1978]

ENACTED by the Parliament of Fiji—

1. This Act may be cited as the Medical Assistants Act, 1978 and shall be deemed to have come into force on the 1st day of January, 1978. Short title.

2. In this Act, unless the context otherwise requires— Interpre-

“ appropriate form ” means a form approved by the Minister for use in any particular case pursuant to this Act; tation.

“ Council ” means the Medical Assistants Registration Council established under section 3;

“ medical assistant ” means a person who has been granted a certificate under section 4;

“ Permanent Secretary ” means the Permanent Secretary for Health;

“ Secretary ” means the Secretary to the Council.

3.—(1) For the purposes of this Act, there shall be established a Medical Assistants Registration Council. Establish-

(2) The Council shall consist of—

(a) the Permanent Secretary who shall be Chairman;

ment of  
Medical  
Assis-  
tants  
Regis-  
tration  
Council.

- (b) a senior professional medical officer of the Ministry of Health appointed by the Minister;
- (c) the Principal of the Fiji School of Medicine; and
- (d) two medical assistants appointed by the Minister.

(3) The Minister shall appoint a suitable person to be Secretary to the Council.

(4) Three members shall constitute a quorum at any meeting of the Council.

(5) Subject to the provisions of this Act the Council may regulate its own procedure and may make rules for that purpose.

(6) The Council shall cause proper records of its proceedings to be kept.

Require-  
ments  
for regis-  
tration.

4. A person in possession of a certificate in the appropriate form granted by the Fiji School of Medicine (hereinafter referred to as "the School ") certifying that he has—

- (a) attended an approved course of study as a medical assistant at the School for a period of not less than three years;
- (b) passed to the satisfaction of the School approved examinations; and
- (c) satisfied the School of his ability to practise as a medical assistant in the service of the Government subject to such regulations as may be made under this Act,

shall be entitled to make application to the Council for registration as a medical assistant.

Register  
to be kept

5 —(1) The Council shall form and maintain a register in which shall be entered the names of all persons registered as medical assistants.

(2) The Secretary shall in the month of January in each year cause to be published in the Gazette a list of the names of the persons registered in the register.

Limi-  
tation on  
practice.

6. No medical assistant shall practise medicine except in the service of Government.

Prescrip-  
tions.  
Cap. 96  
(Cap. 114).

7. Notwithstanding the provisions of the Pharmacy and Poisons Act, but subject to any limitations or restrictions which may be imposed by the Permanent Secretary, a medical assistant may issue prescriptions and dispense any medicine or drug.

Miscon-  
duct.

8.—(1) If any person who is registered as a medical assistant is after due inquiry, at which inquiry such person shall be entitled to be heard, adjudged by the Council to have been guilty of professional misconduct the Council may, if it sees fit, order that the name of any such person be deleted from the register and the Chairman of the Council shall forthwith delete that name and the Secretary shall notify the person affected.

(2) Notwithstanding the provisions of subsection (1), the Council may, instead of ordering that the name of any person be deleted from the register issue a reprimand or warning to such person.

(3) In directing that a person's name shall be deleted from the register the Council may, if it sees fit, specify a period on the expiration of which such person may again apply to be registered under the provisions of this Act.

(4) An order made by the Council under this section shall not take effect in any case until the expiration of 30 days after the date of the order and if, within that period, the person affected gives notice of his intention to appeal against the order, shall not take effect until and unless it is confirmed by a resident magistrate or the appeal is for any reason dismissed by such magistrate.

9. Any person whose application for registration under the provisions of section 4 is refused or whose name has been deleted from the register under the provisions of section 8 may within 30 days of notification to him of such refusal or deletion appeal to a resident magistrate and on any such appeal the resident magistrate may make such order as he thinks proper having regard to the merits of the case and the public welfare. Appeals.

10.—(1) No person shall be entitled to take or use the name or title of medical assistant or any name title, addition or description implying that he is registered under this Act unless he is so registered. Penalty.

(2) Any person not being registered under this Act who takes or uses any such name title, addition or description as aforesaid shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred dollars or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.

11. Every person who wilfully procures or attempts to procure himself to be registered under this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration either verbally or in writing, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred dollars or to imprisonment for a period not exceeding six months or to both such fine and imprisonment. Penalty for obtaining registration by false pretences.

12. The Minister may make regulations—

(a) imposing conditions and restrictions on practising by medical assistants; and

(b) generally for the better carrying out of the provisions of this Act. Regulations.

Passed by the House of Representatives this seventeenth day of August in the year of our Lord one thousand, nine hundred and seventy-eight.

Passed by the Senate this twenty-sixth day of September in the year of our Lord one thousand, nine hundred and seventy-eight.

[1962] 1 G.L.R.

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IN THE HIGH COURT, KUMASI

29th March, 1962

APALOO, J.

THE STATE v. KWAKU NKYI

*Criminal law—Manslaughter—Negligence—Practising medicine without being registered—Medical and Dental Act, 1959, s. 23 (1).*

The accused, a student nurse, was asked to treat a sick child. He agreed to do so, and injected the child twice with what he believed was mepacrine. The child's condition immediately deteriorated and he died within a few hours. *Post mortem* examination revealed that death was due to arsenic poisoning. The accused was charged with manslaughter and with practising medicine without being registered.

*Held:* (1) the negligence of the accused in mistaking arsenic for the drug he intended to administer did not amount to a reckless disregard for human life. *R. v. Ezeocha* (1946) 12 W.A.C.A. 56 distinguished;

(2) his conduct brought him within the mischief which the Medical and Dental Act, 1959, s. 23 (1) seeks to prevent.

Cases referred to:

- (1) *R. v. Awonu* (1946) 12 W.A.C.A. 95
- (2) *R. v. Mensah* (1948) 12 W.A.C.A. 346
- (3) *Andrews v. D.P.P.* [1937] A.C. 576
- (4) *R. v. Bateman* (1925) 19 Cr. App. R. 8
- (5) *Akerele v. The King* (1942) 8 W.A.C.A. 5, P.C.
- (6) *R. v. Ezeocha* (1946) 12 W.A.C.A. 56

TRIAL of accused before judge and assessors for manslaughter and practising medicine without being registered contrary to the Medical and Dental Act, 1959, s. 23 (1).

*A. K. Gikunoo* for the prosecution.  
Accused in person.

Apaloo, J. In this case, there is a comfortable area of agreement between the case of the prosecution and defence. The accused was at the material time a student nurse at the Central Hospital, Kumasi. He was described by Mr. Doku (P.W.6) as a good student and well behaved. Working in the same hospital, was Adongo Frafra who was employed there as a labourer. It seems from the evidence that he knew the accused well and they both appear to get on well together. Adongo Frafra also had in town a cousin by name Akwaba Frafra.

It is established by the evidence that about one week before the 12th December, 1960, Akwaba's two-year old son by name Asamprana was taken ill. It is said he had a cough and temperature. Accordingly, Akwaba asked Adongo whether he could get some one in the hospital to come round and have a look at the boy. Adongo got in touch with the accused. I am satisfied that the accused agreed to go to Akwaba's house and treat the child. Both the accused and Adongo went to Akwaba's house reaching there about 3 p.m. on the 12th December, 1960. I find the accused took with him a syringe and a drug which turned

out to be arsenic. After being told the nature and the history of the illness, accused injected each side of the child's buttocks with the said drug. I accept the evidence that the accused was asked what fee he would charge for his services. He said one pound. This was promised to be sent to him the next day. Both the accused and Adongo then left Akwaba's house.

As soon as they left, the child's sickness took a turn for the worse. He screamed seriously, began to tremble and there was foam in his mouth. Akwaba quickly handed the child to his mother Alufuah and went out to fetch back the accused. Before he returned, the child died in his mother's arms. The dead body was rushed to hospital in a taxi. At 1 p.m. the following day, Dr. Joshin, the pathologist, performed a *post mortem* examination on the dead child. As he was unable to arrive at a conclusion as to the cause of death he incised the two sides of the child's buttocks which were injected and forwarded these to the government chemist together with the stomach, liver, kidneys and a piece of brain. On the basis of the chemist's report, Dr. Joshin expressed as his opinion that Asamprana's death was due to acute arsenic poisoning.

The prosecution's case if I understand it aright is that Asamprana's death was caused by harm, which harm resulted from the accused's negligence. The negligence consisted in the fact that the accused who is not a qualified medical man took it upon himself to treat a sick child. In doing so, he used a dangerous drug without skill with the result that the patient died. Although I feel no doubt that the accused mistook arsenic for mepacrine due to their similarity in colour, had he been more skilful than he in fact is, he could have distinguished between the two. In my opinion, his voluntary assumption of the treatment of Asamprana without necessary skill, as he well knew, is itself evidence of negligence.

In the cases of *R. v. Awonu*<sup>1</sup> and *R. v. Mensah*<sup>2</sup> it was decided that the law of negligence in this country was more widely defined than in the case of England and Nigeria and that section 14 (1) of the Criminal Code<sup>3</sup> appeared to have codified the law relating to civil negligence then in England. It was accordingly held that cases like *Andrews v. D.P.P.*,<sup>4</sup> *R. v. Bateman*<sup>5</sup> and *Akerele v. The King*<sup>6</sup> which laid down the degree of negligence which would suffice to establish manslaughter by negligence, were inapplicable in this country. These cases establish that in order to found criminal liability based on negligence, the negligence must be gross and must pass beyond a mere matter of carelessness and show such disregard for life and safety as to amount to a crime against the State. The position therefore was that from the point of view of an accused person the law of criminal negligence in England was more liberal than the law then in this country. These cases of *Awonu* and

<sup>1</sup> (1946) 12 W.A.C.A. 95.

<sup>2</sup> (1948) 12 W.A.C.A. 346.

<sup>3</sup> Cap. 9 (1951 Rev.).

<sup>4</sup> [1937] A.C. 576.

<sup>5</sup> (1925) 19 Cr. App. R. 8.

<sup>6</sup> (1942) 8 W.A.C.A. 5, P.C..

*Mensah* to which I have referred were decided in 1946 and 1948 respectively. In 1950, the law of manslaughter by negligence in this country was made more conformable to the law of England by a proviso that the negligence to found a charge of manslaughter must amount to a reckless disregard for human life. The result of this amendment is to equate the law relating to criminal negligence in this country to the law of England.

As I have said, the fact that the accused was negligent is plain enough but I cannot find on the evidence that such negligence was gross or amounts to a reckless disregard for human life. At least in one sense at any rate, the accused in responding to Adongo's invitation and proceeding to Akwaba's house with a view to attending to his sick child, showed anxious regard for human life. In my judgment, it would not be right to hold that the accused's negligence amounts to a reckless disregard for human life simply because possibly out of inadvertence or want of care, he mistook the drug that he intended to administer to the sick child. In my opinion, this case is distinguishable from *R. v. Ezeocha*<sup>7</sup> in which the West African Court of Appeal held that a native doctor who administered bismuth to a patient causing her toxæmia from which she died was guilty of criminal negligence on the ground that while in that case the accused intended to administer a dangerous drug, the accused in this case mistook a dangerous drug for a perfectly harmless one. There is also the fact that in *Ezeocha's* case, the native doctor appears to be a wholly untrained person, whereas the accused in this case was a student nurse and was no novice at administering injections. Accordingly, I hold that the prosecution has failed to show that the proved negligence of the accused amounts to a reckless disregard for human life. I therefore share the unanimous opinion of the assessors and find the accused not guilty of manslaughter and acquit him on count one.

With regard to the second count, it seems to me that the accused brought himself precisely within the mischief which section 23 (1) of the Medical and Dental Act, 1959,<sup>8</sup> seeks to prevent. As the accused himself admits, he proceeded to Akwaba's house on the day in question with the object of treating his sick child and for this purpose, carried with him a syringe and a drug which turned out to be arsenic. In administering this drug to the sick child, the accused clearly practised medicine within the meaning of the section. The accused as he himself admits, is a student nurse and is not a registered medical practitioner and accordingly committed an offence against section 23 (1) of the Medical and Dental Act, 1959. I find him guilty of that offence and convict him on count two of the indictment.

*Acquitted on count one.  
Convicted on count two.*

<sup>7</sup> (1946) 12 W.A.C.A. 56.

<sup>8</sup> Act 36/1959.

ANNEX G

More than a few medical practice statutes in the Commonwealth contains sections which either permit individuals who possess special licences to provide medical care or exempt special classes of individuals from the sanctions imposed under those statutes. Samples of these are found below.

Special Licences

Medical Practitioners and Dentist Act  
sections 13 and 14 (Kenya)

Licensing of persons to render medical or dental services.

13. (1) Notwithstanding any of the other provisions of this Act, the Board may, if it is satisfied that it is in the public interest to do so, confer upon any person who is not otherwise eligible to be registered as a medical practitioner or as a dentist under the provisions of this Act, by the issue, under the signature of the Director of Medical Services, of a licence to do so, the right to render medical or dental services.

(2) Every such licence shall be for such period and may contain such conditions as the Director of Medical Services shall, with the consent or on the instruction of the Board, impose.

(3) Any licence issued under this section may be cancelled or revoked and withdrawn at any time by the Director of Medical Services with the consent or on the instructions of the Board.

Effects of registration and licence under section 13.

14. (1) Registration as a medical practitioner or a dentist under this Act, or the granting of a licence under section 13 of this Act, shall only entitle the person so registered or so licensed to practise medicine or dentistry or to render medical or dental services, as the case may be, in a salaried post under a Government or Local Government health scheme or in such salaried posts in such institutions as the Board may from time to time approve.

(2) No medical practitioner or dentist shall act as or engage in private practice as a private practitioner or may be employed by a private practitioner, unless he holds a licence to engage in private practice under the provisions of section 15 of this Act.

Medical Ordinance, section 31 (Sri Lanka)

Where a person, who is not qualified to be registered under section 29 (1), is certified, by written statement given under the hand of the Director of Health Services and lodged with the registrar, to be in the employment of the Government of Sri Lanka as a medical officer, such person shall be deemed to be a duly registered medical practitioner, while he is so employed.

## Special Exemptions

### Medical Practitioners and Dentists Act section 25 (Ghana)

Any person who wilfully and falsely takes or uses any name, title or addition implying a qualification to practise medicine or surgery or dentistry, or, not being registered or licensed under this Act or entitled under section 21 of this Act to the privileges of persons registered under this Act, practises or professes to practise or publishes his name as practising medicine or surgery or dentistry, shall be guilty of an offence and liable to a fine not exceeding three thousand shillings, or in default of payment to imprisonment for a term not exceeding twelve months.

Provided that nothing in this section contained shall make it an offence for any person in the service of:

- (i) the Medical Department of the Government; or
- (ii) any hospital, dispensary or similar institution which the Director of Medical Services, by notice in the Gazette, declares to be an approved institution for the purposes of this section;

to render medical assistance in the course of his duties in such service.

### Medical Practitioners and Dentists Act section 22 (Kenya)

**Penalty for  
unregistered  
and unlicensed  
person  
practising.**

22. Any person who wilfully and falsely takes or uses any name, title or addition implying a qualification to practise medicine or surgery or dentistry, or, who, not being registered or licensed under this Act, practises or professes to practise or publishes his name as practising medicine or surgery or dentistry or who, not being licensed under section 15 of this Act, practises as a private practitioner, shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings, or in default of payment to imprisonment for a term not exceeding twelve months:

Provided that nothing in this section contained shall make it an offence for any person in the service of—

- (i) the Medical Department of the Government; or
- (ii) any hospital, dispensary or similar institution which the Director of Medical Services, by notice in the Gazette, declares to be an approved institution for the purposes of this section,

to render medical assistance in the course of his duties in such service or for a person to carry out treatment under the direction, supervision and control of a medical practitioner or a dentist or of a person licensed under section 13.

Practice of Indigenous Therapeutics

Medical Practitioners and Dentists Act  
section 26 (Kenya)

Nothing contained in this Act shall prohibit or prevent the practice of systems of therapeutics according to African or Asian method of persons recognized by the community to which they belong to be duly trained in such practice.

Provided that nothing in this section shall authorize any person to practice any African or Asian system of therapeutics except amongst the community to which he belongs, or the performance of an act on the part of any persons practising any such system which is dangerous to life of the giving of an injection by any person practising any such system.



BERMUDA  
1973 No. 51

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**THE PROFESSIONS  
SUPPLEMENTARY TO MEDICINE  
ACT 1973**

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[Date of Assent 25th June, 1973]

[Operative Date 1st June, 1974]

WHEREAS it is expedient to provide for the establishment of a Council and Boards for certain professions supplementary to medicine; to provide for the registration of members of those professions, for regulating their professional qualifications and professional conduct, for cancelling registration in cases of misconduct, and for purposes connected with the matters aforesaid:

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the House of Assembly of Bermuda, and by the authority of the same, as follows:—

**PART I  
PRELIMINARY**

1. (1) In this Act, unless the context otherwise requires — **Interpretation.**  
“appropriate authority” in relation to a specified profession, means —
- (a) the Board established for that profession;
  - (b) where there is no such Board, the Minister;
- “Bermuda Medical Board” means the Bermuda Medical Board constituted under the Medical Practitioners Act 1950;

"Board" means a Board established under section 4;

"Council" means the Council for the Professions Supplementary to Medicine established under section 3;

"medical practitioner" means a person entitled to practise in Bermuda as a medical practitioner under the Medical Practitioners Act 1950;

"Minister" means the Minister of Health and Social Services;

"prescribed" means prescribed by regulations;

"registered" means registered under section 5;

"regulations" means regulations prescribed under section 14;

"rules" means rules prescribed under section 14;

"specified profession" means any profession specified in the First Schedule.

(2) Where the Minister is the appropriate authority he shall, so far as is practicable, discharge his functions under this Act in consultation with practitioners of the specified profession concerned, but no court shall inquire whether or not there has been such consultation.

Act not to  
apply in  
relation to  
certain  
armed forces.

2. Nothing in this Act shall apply to the practice of a specified profession by a person who is an officer or employee of any of the naval, military or air forces of Her Majesty or of the United States of America —

- (a) on or in relation to a person who is a member of such a force or the family of such a member; or
- (b) on or in relation to a person who is employed directly by such a force.

Council.

3. (1) There shall be established for all the specified professions a body of persons, to be called the Council for the Professions Supplementary to Medicine, which shall have the general function of co-ordinating the activities of the Boards and specified professions, determining their relationship with the medical profession and other related professions and advising the Minister in respect thereto.

(2) The Council shall consist of —

- (a) a Chairman appointed by the Minister;
- (b) one member who shall be a medical practitioner appointed by the Minister after consultation with the Bermuda Medical Board;

- (c) one member elected by each Board, who shall be a practitioner of the specified profession for which the Board is established;
- (d) one member appointed by the Minister for each of the specified professions for which there is not a Board, who shall be a registered practitioner of that profession.

(3) The incidental provisions contained in the Second Schedule shall have effect with respect to the Council.

4. (1) Where there are five or more persons lawfully practising a specified profession in Bermuda there shall be established for that profession a Board, which shall exercise and perform the functions assigned to it under this Act. **Boards.**

- (2) Each Board shall consist of —
  - (a) a Chairman appointed by the Minister;
  - (b) if the Chairman is not a medical practitioner, a member who is such a practitioner appointed by the Minister;
  - (c) three members elected from among themselves by registered persons practising the profession for which the Board is established.

(3) When a Board has been established under the provisions of this section it shall continue in being notwithstanding that there are less than five persons in Bermuda lawfully practising the specified profession for which it has been established until such time as it is abolished by the Minister by order published in the Gazette.

(4) The incidental provisions contained in the Second Schedule shall have effect with respect to each Board.

## PART II REGISTRATION AND DISCIPLINE

5. (1) No person shall practise a specified profession in Bermuda unless his name appears on the register maintained by the Minister in respect of that profession for the purposes of this Act. **Establishment and maintenance of registers.**

(2) A person seeking to be registered shall make application therefor in the prescribed manner to the Minister.

(3) Subject to section 7 and the regulations a person shall be registered if he satisfies the appropriate authority —

- (a) that he holds a qualification for the time being accepted for the purposes of this Act by the appropriate authority; and
- (b) if the appropriate authority so requires, that he has had sufficient practical experience in his profession, and he is otherwise, in the opinion of the appropriate authority, a fit and proper person to be registered.

(4) The Minister shall register a person carrying on a specified profession in Bermuda at the commencement of this Act notwithstanding that he does not hold a qualification of the nature specified in subsection (3)(a) if the appropriate authority is of the opinion that such person is competent to practise such profession.

(5) In determining whether a person is a fit and proper person to be registered in accordance with the provisions of subsections (3) and (4) the appropriate authority may require that person to undergo such tests or examinations as it may consider appropriate.

(6) Notice of the acceptance of a qualification for the purposes of subsection (3) shall be published in the Gazette.

**Proof of registration.**

6. A certificate purporting to be under the hand of the Permanent Secretary, Ministry of Health and Social Services declaring that a person named therein is, or is not, as the case may be, registered in any register maintained under this Act, and in the case of a person who is so registered specifying the date of registration, shall be admissible in any proceedings as *prima facie* evidence of the facts stated therein.

**Removal of names from register for crime, infamous conduct, incapacity etc.**

7. (1) Where —

- (a) a person whose name appears on a register is convicted by any court in Bermuda or elsewhere of a criminal offence which, in the opinion of the appropriate authority, renders him unfit to be registered; or
- (b) such a person is, in the opinion of the appropriate authority, guilty of infamous conduct in any professional respect; or
- (c) the appropriate authority is satisfied that the name of such a person has been fraudulently entered on the register maintained by it; or
- (d) the appropriate authority is satisfied that such a person is, by reason of mental disorder or incapacity, incapable of carrying on his profession,

the appropriate authority may, if it thinks fit, direct that the person's name shall be removed from the register.

(2) A direction shall not be given under subsection (1) save after an inquiry in accordance with the regulations.

(3) Any person aggrieved by a direction of the appropriate authority under subsection (1) may, at any time within twenty-eight days from the date of receiving notice of the direction, appeal against the direction to the Supreme Court in accordance with the rules.

(4) A direction for the removal of a name from the register shall take effect —

- (a) where no appeal under this section is brought against the direction within the time limited for the appeal, on the expiration of that time;
- (b) where such an appeal is brought and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal;
- (c) where such an appeal is brought and is not withdrawn or struck out as aforesaid, if and when the appeal is dismissed.

8. A person whose name is removed from a register in pursuance of a direction of the appropriate authority under section 7 shall not be entitled to be registered in that register again except in pursuance of a direction in that behalf given by the appropriate authority on the application of that person; and a direction under section 7 for the removal of a person's name from the register may prohibit an application under this section by that person until the expiration of such period from the date of the direction as may be specified in the direction.

Registration after removal of name from register.

9. (1) For the purpose of an inquiry under section 7(2) the appropriate authority shall have power by order under the hand of —

Power of appropriate authority to obtain information.

- (a) the Chairman of the Board, where the appropriate authority is a Board;
- (b) the Minister, where he is the appropriate authority,

to require any person to attend before the appropriate authority and to give evidence on oath or otherwise, and to require the production of documents, so as to elicit all such information as the appropriate authority may consider necessary.

(2) Any person who —

- (a) fails without reasonable excuse to attend before the appropriate authority in compliance with an order under subsection (1);

- (b) when in attendance before the appropriate authority refuses to make an oath, or refuses to produce a document, or refuses to give evidence, in compliance with such an order as aforesaid,

shall be guilty of an offence and shall be liable on summary conviction therefor to a fine not exceeding two hundred and fifty dollars:

Provided that the person shall not be punished for refusing to answer any question or to produce any document which he could not be required to answer or produce before a court of Bermuda, or for failing or refusing to answer any question or produce any document which is not relevant to the matters in issue.

Statement as to proper or improper conduct

10. (1) It shall be the duty of the appropriate authority to prepare, and from time to time revise, in consultation with the Council, a statement as to the kind of conduct which the appropriate authority considers to be proper or improper conduct in a professional respect, and the appropriate authority shall send by post to each registered member of a specified profession at his address on the register, a copy of the statement as for the time being revised.

(2) In the exercise of its functions under section 7 the appropriate authority shall be guided by any relevant statement prepared under this section but it may hold a person guilty of infamous conduct in a professional respect notwithstanding that such conduct is not prohibited by the statement; but the appropriate authority shall not hold a person guilty of infamous conduct in a professional respect if such conduct is authorised by the statement.

### PART III

#### OFFENCES AND SUPPLEMENTARY

Use of titles.

11. (1) A person who is registered shall be entitled to use the word "registered" to describe the nature of his professional practice, where that practice is the practice in respect of which he is registered.

- (2) Any person —
- (a) who uses, either alone or in conjunction with other words, the words "Government Registered", or words of like purport to describe the nature of his practice, being that of a specified profession, and is not registered in respect of that profession; or
- (b) who takes or uses any name, title, addition or description falsely implying, or who otherwise pretends,

that his name is on a register established under this Act,

shall be guilty of an offence and shall be liable on summary conviction therefor to a fine not exceeding two hundred and fifty dollars and, in the case of a second or subsequent conviction, to a fine not exceeding five hundred dollars.

12. If a person procures or attempts to procure the entry of any name on a register established under this Act by wilfully making or producing, or causing to be made or produced, either verbally or in writing, any declaration, certificate or representation which he knows to be false shall be guilty of an offence and shall be liable on summary conviction therefor to a fine not exceeding five hundred dollars.

Penalty for false representations, etc., to obtain registration.

13. (1) No person shall practise a specified profession (by whatever name called) unless —

Unlawful practice.

- (a) he is registered in respect of that profession; or
- (b) his practice is incidental to the practice of some other profession lawfully carried on by him in accordance with the laws regulating the practice of that other profession.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on summary conviction therefor to a fine not exceeding two hundred and fifty dollars and, in the case of a second or subsequent conviction, to a fine not exceeding five hundred dollars.

14. (1) The Minister may make regulations for the better administration of this Act and, without derogation from the generality of the foregoing, such regulations may —

Regulations and rules.

- (a) prescribe anything which, under this Act, is required or permitted to be prescribed;
- (b) prescribe fees payable by an applicant for registration under this Act or in connection with any examination or test required to be undertaken by such an applicant;
- (c) prescribe the procedure to be followed by the appropriate authority;
- (d) prescribe the manner in which any notice required by the Act or regulations to be served on any person shall be served;
- (e) regulate the making of applications for registration and provide for the evidence to be produced in support of an application.

(2) The power of the Chief Justice to make rules under section 21 of the Supreme Court Act 1905 shall extend to the making of rules regulating the practice and procedure to be followed on an appeal to the Supreme Court under section 7(3), and the fees payable in connection therewith.

(3) Regulations under this section shall be published in the Gazette.

**Amendment of  
First Schedule.**

15. (1) The Minister may, after consultation with the Council, amend the First Schedule by —

- (a) varying the definition or style of any profession; or
- (b) adding any profession thereto or removing any profession therefrom.

(2) An order under this section shall be laid before both Houses of the Legislature as soon as practicable after it has been made; and if either House within three days after a copy of the order has been laid before it, being days on which the House has sat resolves that the order or any part be annulled, then such order, or such part, as the case may be, shall be deemed to have been revoked with effect from the date of such resolution.

**Consequential  
amendments.**

16. (1) The Medical Practitioners Act 1950 shall be amended in section 2(1) by the insertion after the word "midwife" in the proviso thereto of the words "or in relation to the practice of his profession by any person registered under the Professions Supplementary to Medicine Act 1973".

(2) The Government Authorities (Fees) Act 1971 shall be amended in Part III of the First Schedule by the addition under the heading "Authority" of the following item —

"The Council and Boards for the professions supplementary to medicine established under sections 3 and 4 of the Professions Supplementary to Medicine Act 1973".

**Transitional.**

17. (1) Nothing in this Act shall prevent a person who was practising a specified profession in Bermuda at the commencement of this Act from continuing to practise such profession for a period of six months after such commencement.

(2) During the period specified in subsection (1) any person carrying on the practice of a specified profession by virtue of the provisions of that subsection shall be deemed to be registered for the purposes of this Act.

**Commencement.**

18. This Act shall come into operation on such day as the Minister may, by notice in the Gazette, appoint.

### FIRST SCHEDULE

"chiroprapist" means a person skilled in the treatment of foot conditions locally and conservatively and the palliative relief of chronic foot anomalies and resultant lesions;

"dietician" means a person skilled in the science of relating diet or food to health and disease and the systematic regulation of such diet;

"medical laboratory technician" means a person skilled in medical laboratory techniques;

"occupational therapist" means a person skilled in the treatment of disability, illness or injury using different forms of activity, work or recreation;

"physiotherapist" means a person skilled in the stimulation of healing and the return of function by the use of physical means, in the rehabilitation of the sick and injured;

"radiographer" means a person skilled in the use of X-ray radiation as a means of diagnosis and therapy;

"speech therapist" means a person skilled in the treatment of disorders of speech, voice, language and communication.

### SECOND SCHEDULE

#### PART I

##### Provisions Common to the Council and the Boards

1. A member of the Council or a Board shall be appointed or elected, as the case may be, for a period of one year beginning on such day as may be determined by the Minister.
2. A member of the Council or a Board may resign his office at any time by notice in writing given to the Minister.
3. The Minister may declare the office of a member of the Council or a Board vacant if he is satisfied that the member --
  - (a) is unable through mental or physical incapacity or absence from Bermuda to perform the functions of his office;
  - (b) has failed, without adequate cause, to attend three successive meetings of the Council or Board;
  - (c) has been sentenced to imprisonment for the commission of a criminal offence;
  - (d) has had his name removed from the register under section 7.

4. (1) A person appointed or elected to fill the place of a member of the Council or a Board before the end of the member's term of office shall hold office so long only as the vacating member would have held office.  
  
(2) Where the place of a member of the Council or of a Board becomes vacant before the end of his term of office and the unexpired portion of his term of office is less than three months, the vacancy need not be filled.
5. A person who has held office as a member of the Council or a Board shall be eligible for re-appointment or re-election, as the case may be.
6. The Council or a Board may act notwithstanding any vacancy in its membership, and no act of the Council or a Board shall be deemed to be invalid only by reason of a defect in the appointment or election of a member thereof.
7. Subject to the foregoing provisions of this Schedule, the Council and a Board may determine its quorum and procedure.

## PART II

### Special Provisions Relating to the Council

1. There shall be not less than two Council meetings in each calendar year.

## PART III

### Special Provisions Relating to the Boards

1. Boards shall meet as often as may be necessary for them to dispatch their business under this Act.
2. A minute shall be made of every decision of a Board in such form as the Minister may direct.
3. (1) Where any matter is before a Board under section 5 or 7, a member of the Board may, with the leave of the Chairman, withdraw on the ground that he is personally acquainted with the facts of the case or for any other reason which the Chairman deems sufficient and the Chairman may himself withdraw on any such ground.  
  
(2) Where a member has so withdrawn, the Chairman may request the Minister to appoint some person, who need not be a practitioner of a specified profession, to be a member of the

