



BERMUDA

MEDICAL PRACTITIONERS ACT 1950

1950 : 38

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SCHEDULE 1

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Medical practitioners PROFESSIONAL CONDUCT COMMITTEE

SCHEDULE 3

[preamble and words of enactment omitted]

PRELIMINARY

Interpretation

1 In this Act—

“authorized visiting practitioner” has the meaning given in section 21;

“Bermuda Medical Doctors Association” means the Association formed in Bermuda to represent medical practitioners;

“Committee” means the Medical Practitioners Professional Conduct Committee established under section 12AA;

“the Council” means the Bermuda Medical Council established by section 5;

“drug or alcohol impaired” means—

- (a) the loss, loss of use, or derangement of any body part, organ system or organ function; or

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(b) the alteration of a person's capacity to meet personal, social and occupational demands in relation to professional practice;

"exempted medical practitioner" means a medical officer of the armed forces, an authorized visiting practitioner and a locum tenens;

"Government Medical Officer" means the Chief Medical Officer and any other Medical Officer in the service of the Government;

"house officer" has the meaning assigned to that expression in section 23;

"locum tenens" has the meaning assigned to it in section 22;

"medical officer of the armed forces" has the meaning given in section 20;

"medicine and surgery" includes midwifery;

"Minister" means the Minister responsible for health;

"Permanent Secretary" means the Permanent Secretary responsible for health;

"prescribed" means prescribed by regulations made under this Act;

"professional misconduct" includes—

(a) incompetence or negligence in the provision of medical or surgical treatment;

(b) improper or unethical conduct in relation to professional practice; and

(c) a contravention of or failure to comply with—

(i) a provision of this Act or, in relation to professional practice, any requirement or condition under any other statutory provision; or

(ii) a code of conduct prescribed under section 5AB;

"the register" means the register of medical practitioners maintained by the Permanent Secretary under section 6;

"registered medical practitioner" means a medical practitioner whose name is entered in the register and includes a practitioner whose name has been entered provisionally;

"registered person" means an exempted medical practitioner, a medical officer of the armed forces, a registered medical practitioner, a specialist, a Government medical officer, an authorized visiting practitioner, a locum tenens, a house officer, or any other person declared by the Minister by notice published in the Gazette to be a registered person;

"specialist" means a person qualified in a speciality by virtue of having not fewer than four years of practice of that speciality of which not fewer than three years were spent in a programme of training approved by the Council;

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“speciality” means a speciality in medicine or surgery.

[section 1 “BMA”, “Committee”, “house officer”, “professional misconduct” and “registered person” inserted, “Minister” and “registered medical practitioner” substituted, “exempted medical practitioner” and “Permanet Secretary” amended, and “house officer” deleted by 2006:15 s.2 effective 15 August 2006; “Bermuda Medical Association” and “the Bermuda Medical Society” deleted, “Bermuda Medical Doctors Association” inserted and “Committee” and “professional misconduct” amended by 2016 : 3 s. 2 effective 1 April 2016]

Unqualified persons; offences

2 (1) Without prejudice to any other provision of this Act, a person who is not a registered medical practitioner or an exempted medical practitioner—

- (a) shall not take or use any name, title or description (whether by initials or otherwise) stating or implying that he is a registered or exempted medical practitioner;
- (b) shall not—
 - (i) practise medicine or surgery in Bermuda whether or not such practice is for gain; or
 - (ii) hold himself out as practising medicine or surgery in Bermuda:

Provided that nothing in this subsection shall have effect in relation to the practice of dentistry or dental surgery by a registered dental practitioner, or in relation to the practice of midwifery by a registered midwife, or in relation to the practice of his profession by any person registered under the Professions Supplementary to Medicine Act 1973 [*title 30 item 18*], or in relation to the practice of his profession by any person registered under the Optometrists and Opticians Act 1973 [*title 30 item 14*].

(2) A person, whether or not a registered medical practitioner or an exempted medical practitioner, shall not take or use, or affix to or use in connection with his premises, any name, title or description (whether by initials or otherwise) reasonably calculated to suggest that he possesses any professional status or qualification as a medical practitioner other than a professional status or qualification which he in fact possesses, and which, in the case of a registered medical practitioner, is indicated by particulars entered in the register in respect of him.

(3) Any person who contravenes any provision of this section commits an offence against this Act;

Punishment on summary conviction: a fine of \$1680 or imprisonment for 6 months or both such fine and imprisonment:

Provided that it shall be a good defence, in respect of proceedings brought under subsection (1)(b), to prove that the practice complained of took place in an emergency.

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Entitlement to practise medicine and surgery

3 A registered medical practitioner or an exempted medical practitioner shall, subject as hereinafter in this Act provided, be entitled to practise medicine and surgery in Bermuda, and to recover in due course of law in respect of such practice any fees and expenses and any charges in respect of medicines, drugs or appliances, arising therefrom.

Bar to recovery of fees without proof of entitlement to practise medicine or surgery

4 A person who is not a registered medical practitioner or an exempted medical practitioner shall not be entitled to recover in any court any fees, expenses or charges in respect of his practice of medicine or surgery in Bermuda, unless he proves—

- (a) that at the time of the practice in question he was a registered medical practitioner or an exempted medical practitioner entitled to perform such practice; or
- (b) that the practice took place in an emergency, and that his charging of fees in respect of his practice was approved by the Council:

Provided that nothing in this section shall have effect in relation to the practice of dentistry or dental surgery by a registered dental practitioner, or in relation to the practice of midwifery by a registered midwife.

Bermuda Medical Council established

5 (1) There shall be established a body called “the Bermuda Medical Council”, whose general function shall be to secure high standards of professional competence and conduct in the practice of medicine and surgery in Bermuda, and who shall have such other functions as may be assigned to the Council by this Act or any other statutory provision.

(2) *[Repealed]*

(3) The Council shall consist of seven members, of whom—

- (a) two shall be registered medical practitioners appointed by the Minister;
- (b) two shall be persons, not being registered medical practitioners, appointed by the Minister as persons appearing to him to be qualified by their training or experience or both to assist the Council in matters of a legal or ethical nature;
- (c) two shall be selected by the Minister from a list of three registered medical practitioners in good standing who are nominated by the Bermuda Medical Doctors Association; and
- (d) one shall be the Chief Medical Officer, *ex officio*.

(3A) The Minister shall appoint to act whenever needed as the alternate to each person appointed under subsection (3)(a), (b) or (c), a second person having the same qualifications.

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(3B) An alternate member shall be appointed in accordance with the requirements for the appointment of the member, and his term of appointment shall, if not sooner terminated, end at the expiration of the term of the member.

(4) *[Repealed]*

(5) The Minister shall appoint one of the persons appointed to the Council under subsection (3) (a) or (c) to be Chairman, and another to be Vice-Chairman, of the Council, in each case for a term not extending beyond the expiration of the term for which he has been appointed a member of the Council.

(6) Upon the death or resignation of an appointed member a person shall be appointed in his place in accordance with the provisions applying to the appointment of the person dying or retiring.

(7) The Chief Medical Officer shall, in addition to being a member of the Council, be the executive officer of the Council ex officio.

(8) The Schedule 1 shall have effect as to the proceedings of the Council and other matters relating to the Council.

[Section 5 subsections (3) and (8) amended by 2006:15 s.3 effective 15 August 2006; subsections (2) and (4) repealed, subsection (3) repealed and replaced and subsections (3A) and (3B) inserted by 2016 : 3 s. 3 effective 1 April 2016]

Protection from personal liability

5AA A member of the Council shall not be personally liable for damages for anything done or omitted to be done in the discharge or purported discharge of the Council's functions under this Act, unless the act or omission was done or made in bad faith.

[Section 5AA inserted by 2016 : 3 s. 4 effective 1 April 2016]

Code of conduct

5AB (1) It shall be the duty of the Council to prepare and, from time to time as they think fit, amend a code of conduct which the Council considers to be conduct and standards that are proper for registered persons in a professional respect (hereinafter referred to as "the Code").

(2) The Council shall send by post to each registered medical practitioner at his address on the register of medical practitioners a copy of the Code and of any amendment made to the Code.

(3) The Code may contain guides to ethical conduct, standards of practice or scopes of practice.

(4) In exercise of their powers under section 13, the Council shall, subject to subsection (5), be guided by any relevant provision of the Code.

(5) Where an enquiry has been conducted by the Council under section 13, the Council may find a person guilty of negligence, incompetence or other improper conduct,

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notwithstanding that the conduct in question is not prohibited by the Code, but they shall not find a person guilty of improper conduct if that conduct is authorized by the Code.

[Section 5AB inserted by 2016 : 3 s. 4 effective 1 April 2016]

Establishment of Professional Conduct Committee

5A (1) *[Repealed by 2016 : 3 s. 5]*

[Section 5A repealed by 2016 : 3 s. 5 effective 1 April 2016]

Preliminary Investigations by Chief Medical Officer

5B *[Repealed by 2016 : 3 s. 6]*

[Section 5B repealed by 2016 : 3 s. 6 effective 1 April 2016]

Permanent Secretary to keep register

6 (1) The Permanent Secretary shall cause to be kept and maintained a register of medical practitioners (hereinafter in this Act referred to as "the register") containing the names of those medical practitioners entitled to be registered under section 7 or 7A of this Act, and such other particulars respecting those persons as this Act may require or as may from time to time be prescribed.

(2) The Permanent Secretary shall cause to be published in the Gazette, as soon as may be after the first day of January in each year, a list of names entered in the register on that day; and a copy of the Gazette containing the most recent list so published shall be, prima facie, evidence in all courts that the persons whose names are included therein are registered medical practitioners; and the absence of the name of any person from the said list shall be, prima facie, evidence that that person is not a registered medical practitioner:

Provided that—

- (a) in the case of any person whose name does not appear in any list, a certificate purporting to be signed by the Permanent Secretary of the entry of the name of such person in the register and of the date of such entry shall be prima facie, evidence—
 - (i) that he is a registered medical practitioner; and
 - (ii) of the date upon which he became a registered medical practitioner;
- (b) in the case of any person whose name does appear in any such list, a certificate as aforesaid of the striking off or removal of the name of that person from the register or of his suspension from practice under this Act and of the date of the striking off or removal or suspension, shall be, prima facie, evidence—
 - (i) that he is not a registered medical practitioner, or has been suspended from practice; and

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- (ii) of the date upon which he ceased by virtue of the striking off or removal to be a registered medical practitioner, or, as the case may be, was suspended from practice.
- (3) The Permanent Secretary—
 - (a) shall cause to be entered in the register the name of a person—
 - (i) who passes an examination held under section 8; or
 - (ia) whose name is to be entered pursuant to section 7A; or
 - (ii) whose name, having been struck off or removed from the register, is to be restored to the register under section 19;
 - (b) shall cause to be made in the register such alterations and additions relating to particulars of registered medical practitioners as may from time to time become necessary; and
 - (c) shall cause to be removed from the register the name of a registered medical practitioner—
 - (i) who has died; or
 - (ii) whose name is to be removed from the register under section 11(1); or
 - (iii) who has, under section 16, applied to have his name removed from the register; and
 - (d) shall cause to be struck off the register the name of a registered medical practitioner—
 - (i) whose name is to be struck off the register under section 14; or
 - (ii) whose name is ordered to be struck off the register under section 28; and
 - (e) shall cause to be entered in the register, as may from time to time become necessary, a note of the commencement or termination of the suspension from practice of a registered medical practitioner under sections 17 and 19 respectively; and
 - (f) may, without prejudice to anything in this section cause such notices to be published in the Gazette as appear to him expedient in the circumstances.

[section 6 subsection (1) amended, and (3)(a)(ia) inserted, by 2006:15 s.5 effective 15 August 2006]

Application for registration

7 (1) A person who applies to be registered under this Act (hereafter in this Act referred to “applicant for registration”) shall apply in the prescribed form to the Permanent Secretary, and shall forward with the application—

- (a) such documents relating to malpractice insurance, professional qualifications, experience and character in support of the application

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(including, where he claims the right to be registered as a specialist, such documents as in his view justify his claim) as may from time to time be prescribed; and

(b) such fee as may be prescribed under the Government Fees Act 1965.

(2) The Permanent Secretary shall cause the application and accompanying documents (if any) to be transmitted to the Council, who shall, as soon as conveniently may be, consider the application.

(3) The Council's consideration of an applicant for registration shall be conducted on behalf of the Council and in the Council's name by a credentials committee appointed for the purpose of the application by the Council; and that committee shall determine on behalf of the Council and in their name whether the applicant is a duly eligible applicant.

(4) A credentials committee shall consist of four persons considered by the Council to possess qualifications appropriate for dealing with the application.

(5) In any case where an applicant for registration does not appear to the credentials committee to be a duly eligible applicant, the committee shall report their decision, and their reasons therefor, to the Council, who shall thereupon transmit the said decision and reasons to the Permanent Secretary as the decision and reasons of the Council.

(6) Any person aggrieved by any decision of the Council under this section may appeal to the Supreme Court against the decision in the manner provided in section 25.

(7) In this section "duly eligible applicant" means an applicant for registration who—

(a) has satisfactorily completed such course of study and examination as the committee consider sufficient to be, prima facie, evidence of his competence efficiently to practise medicine and surgery or, in the case of an applicant for registration as a specialist, the speciality with reference to which he has applied for registration as a specialist;

(b) is of good character;

(c) has not been examined under this Act within the period of the last preceding six months; and

(d) has supplied the Council with a certificate from the Minister responsible for Immigration that he has or will have, subject to meeting the requirements of this Act, the right to work in the practice of medicine or surgery in Bermuda:

Provided that the Council may dispense with the need for such a certificate in any case where they are satisfied that the applicant for registration has that right.

[Section 7 subsection (6) amended by 2006:15 s.5A effective 15 August 2006; subsection (1) amended and subsection (6) repealed and replaced by 2016 : 3 s. 7 effective 1 April 2016]

Provisional registration to acquire training or experience

7A (1) A person who would be eligible for full registration under section 7—

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- (a) as a medical practitioner, except for the fact that he has not completed the relevant postgraduate training; or
- (b) as a specialist, except for the fact that he has not acquired the required clinical experience,

is eligible to be registered provisionally under this section as a medical practitioner or specialist, as the case may be, subject to such conditions as the Council considers appropriate for completion of the postgraduate training or acquisition of the experience.

(2) A person who wishes to be registered provisionally under this section shall apply to the Council in the prescribed form for provisional registration and the application shall be accompanied by such fee as may be prescribed for this purpose under the Government Fees Act 1965.

(3) A person provisionally registered has the powers and privileges conferred by this or any other Act on a registered medical practitioner as far as is necessary to—

- (a) enable him to engage in employment as a house officer (within the meaning of section 23 and subject to that section) in an approved hospital, but no further; or
 - (b) acquire the required clinical experience in his chosen specialty, but no further.
- (4) For the purposes of registration of—
- (a) house officers and medical officers of the armed forces under this section—
 - (i) section 7 (application for registration) applies;
 - (ii) sections 8 (qualifying examination), 9 (examination result) and 10 (application fees) do not apply;
 - (b) all other persons under this section, sections 7 (application for registration), 8 (qualifying examination), 9 (examination result) and 10 (application fees) apply.

[section 7A inserted by 2006:15 s.6 effective 15 August 2006]

Re-registration

7B (1) Every person whose name is entered in the register shall apply in the prescribed form for re-registration every two years after—

- (a) the day that the Medical Practitioners Amendment Act 2006 comes into operation; or
- (b) such later day as the Minister may specify by notice published in the Gazette.

(2) Subject to subsection (3), the Council may re-register a person under subsection (1) if the Council is satisfied that the person—

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- (a) has malpractice insurance;
- (b) continues to meet the qualifications, experience and conduct specified in this Act;
- (c) has within the two years preceding the date of the application for re-registration met the requirements of—
 - (i) the continuing medical education programmes that are applicable to him; and
 - (ii) the number of practice hours as required by the Council.

(2A) Any person aggrieved by a refusal of the Council under this section may appeal to the Supreme Court against the decision in the manner provided in section 25.

(3) Any fees payable on initial registration shall be pro-rated in relation to the first re-registration period.

(4) For the purposes of subsection (2), the “continuing medical education programme” means any programme of training or the development of knowledge that the Council may, from time to time, approve.

[Section 7B inserted by 2006:15 s.6 effective 15 August 2006; subsection (2) repealed and replaced and subsection (2A) inserted by 2016 : 3 s. 8 effective 1 April 2016]

Qualifying examination

8 (1) Where—

- (a) an applicant for registration has been determined pursuant to section 7 to be a duly eligible applicant; or
- (b) any appeal under section 25 by an applicant for registration against any decision of the Council under that section is allowed by the Supreme Court,

the Council shall, as soon as may be, conduct an examination of the applicant (hereafter in this Act referred to as a “qualifying examination”).

(2) The qualifying examination—

- (a) where the applicant desires to be registered as a specialist shall be such examination as the Council think fit, but need not be a written examination if the Council so decide;
- (b) in any other case shall, subject to subsection (3), be set and conducted in such a manner as to ensure, as far as possible, that any person passing the examination is possessed of the competence, skill and knowledge requisite for the efficient practice of medicine or surgery.

(3) Every qualifying examination in a case coming within subsection (2)(b) shall be conducted on behalf of the Council by an examination committee of the Council consisting of an appointed member of the Council and not fewer than two registered medical practitioners.

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(4) The Council, subject as hereinafter provided, and having due regard to subsections (2) and (3) shall have power—

- (a) to determine the nature and scope of a qualifying examination;
- (b) to regulate the conduct of a qualifying examination; and
- (c) to determine whether or not an applicant for registration who has taken a qualifying examination shall be considered to have passed or failed and, in an appropriate case, to require such an applicant to continue the examination in such respects as the Council may direct, without such a continuation counting as a different examination for the purpose of section 7(7)(c).

(5) No appeal shall lie to the Supreme Court under this Act against any determination made under and in accordance with this section.

[Section 8 subsections (1)(b) and (5) amended by 2016 : 3 s. 9 effective 1 April 2016]

Examination result

9 (1) Where an applicant for registration passes a qualifying examination—

- (a) the Council shall transmit a notice of the result of the examination to the Permanent Secretary; and
- (b) the Permanent Secretary—
 - (i) shall cause the applicant's name and professional qualifications to be entered in the register together with such other particulars as may from time to time be prescribed; and
 - (ii) shall cause a certificate of registration in the prescribed form to be completed and forwarded to the applicant.

(2) Where an applicant for registration fails in a qualifying examination, the Council shall inform the Permanent Secretary and the applicant accordingly.

Application fees

10 (1) Where an applicant for registration has in pursuance of section 7(1) forwarded to the Permanent Secretary the fee prescribed under the Government Fees Act 1965 and does not subsequently take a qualifying examination, then in any such case that fee shall not be returned to him.

(2) Where an applicant for registration who has forwarded a fee as aforesaid and subsequently takes a qualifying examination, then, whether he passes or fails in the examination, there shall not be returned to him any part of that fee.

[Section 10 subsection (1) amended by 2016 : 3 s. 10 effective 1 April 2016]

Government Medical Officers

11 (1) *[Repealed]*

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(2) *[Repealed]*

(3) A Government Medical Officer shall not engage in general private practice as a medical practitioner:

Provided that where a private medical practitioner consults a Government Medical Officer with respect to a patient of the private medical practitioner, the Government Medical Officer may engage in private practice to the extent involved in the consultation.

[Section 11 subsections (1) and (2) repealed by 2016 : 3 s. 11 effective 1 April 2016]

Registration of additional qualification

12 Where—

- (a) a registered medical practitioner has, since the date of his registration under this Act, been granted any degree, diploma or other qualification in medicine or surgery, or in sanitary science, public health or state medicine; and
- (b) the degree, diploma or other qualification appears to the Council to deserve recognition in the register,

the Permanent Secretary upon application made by the registered medical practitioner in the prescribed form, shall without charge cause the particulars of the new qualification to be entered in the register.

Medical Practitioners Professional Conduct Committee

12AA (1) There is established, in accordance with Schedule 2, a committee to be known as the “Medical Practitioners Professional Conduct Committee”.

(2) The functions of the Committee are—

- (a) to receive and investigate, or cause to be investigated, complaints against any registered person, including any allegation that—
 - (i) the person’s registration was improperly obtained;
 - (ii) the person is guilty of professional misconduct;
 - (iii) the person is unfit to practise a specialty or to be registered;
 - (iv) the person is unfit to practise by reason of a conviction of an indictable offence, adverse physical or mental health, or being drug or alcohol impaired in the course of performing professional functions; and
- (b) to perform such other functions as may be assigned to it by the Council.

(3) The Committee may investigate any complaint based on matters alleged to have occurred—

- (a) inside or outside of Bermuda; or
- (b) at any time, whether or not at a time when the person was a registered person.

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- (4) A complaint referred to in subsection (2)(a)—
- (a) shall be in writing;
 - (b) shall be made—
 - (i) by the complainant;
 - (ii) if the complainant is a child or is physically or mentally unable to make the complaint, by the parent or guardian, friend or a person acting on behalf of the complainant;
 - (iii) if the conduct complained of relates to a person who is dead, by his executor or personal representative;
 - (c) shall be addressed to the Council;
 - (d) shall be forwarded to the Chief Medical Officer and copied to the Committee;
 - (e) shall set out the matters alleged to constitute grounds for disciplinary action to be taken against the registered person who is the subject of the complaint; and
 - (f) may be required by the Council to be in a form approved by the Council.
- (5) Where—
- (a) in the absence of a complaint made under subsection (4), a matter comes to the attention of the Committee which appears to constitute grounds for disciplinary action against a registered person; or
 - (b) a complaint is made under subsection (4) but the matter is withdrawn,

the Committee may treat, or continue to treat, the matter as if it were a complaint made under subsection (4).

(6) Schedule 2 has effect as to the appointment and proceedings of the Committee and other matters relating to the Committee.

[Section 12AA inserted by 2016 : 3 s. 12 effective 1 April 2016]

Investigation of complaint by Committee

12A (1) Where a complaint is made (or treated as made) under section 12AA(4), or is received under section 13A, the Committee shall investigate the complaint and determine whether, in its opinion, the complaint—

- (a) is frivolous or vexatious, is made in bad faith, is an abuse of process, or for any other reason ought not to be referred to the Council;
- (b) arose from a misapprehension on the part of the complainant or a misunderstanding between the complainant and the registered person; or
- (c) ought to be referred to the Council for decision.

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(2) The Committee may, if it considers it is necessary for the protection of the public, recommend to the Council that it make an interim order suspending the registered person from the register for such period as the Council considers appropriate.

(3) The Committee—

- (a) shall give written notice to the registered person who is the subject of the complaint that a complaint has been made, together with a summary of the matters alleged in the complaint;
- (b) shall request that the registered person who is the subject of the complaint show cause in writing, within a specified time after the notice is given, explaining why the matter should not be placed before the Council for determination;
- (c) may require any person (whether or not a registered person) to provide information or documentation that appears to be relevant to a case, if the disclosure of that information or documentation is not prohibited under any Act;
- (d) may take evidence from witnesses on oath or affirmation, administered by the Chairman; and
- (e) shall give the registered person the opportunity to be heard.

(4) A person or practitioner under subsection (3)(c) may be summonsed to appear before the Committee and provide evidence that is determined by the Committee to be relevant to a matter.

(5) If the Committee determines that a complaint is frivolous or vexatious, is made in bad faith, is an abuse of process or otherwise ought not to be considered by the Committee, it shall dismiss the complaint and give written notice to the complainant of the dismissal and the reasons for the dismissal.

(6) If the Committee considers that a complaint arose from a misunderstanding by the complainant or between the complainant and the registered person complained of, the Committee may, before proceeding further with the investigation of the complaint, require the parties to appear before it in order to discuss the matter with a view to clarifying the misunderstanding and resolving the matter informally.

(7) The Committee may recommend to the Council that guidelines on future conduct be issued by the Council to all registered persons concerning any of the matters coming to the Committee's attention in the course of the investigation.

(8) If the Committee determines that a complaint ought to be referred to the Council for decision, the Committee shall, as soon as practicable, refer the matter to the Council.

(9) The Committee—

- (a) shall inform the Council of its findings; and

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- (b) may make such recommendations as it thinks fit, to the Council, including a recommendation that no further action be taken.

[Section 12A inserted by 2006:15 s.7 effective 15 August 2006; repealed and replaced by 2016 : 3 s. 13 effective 1 April 2016]

Enquiry into complaint by Council

13 (1) If, pursuant to an investigation under section 12A, the Committee places the matter before the Council for determination, the Council shall enquire into the matter.

(2) For the purposes of an enquiry under this section, the Council—

- (a) may take evidence from witnesses on oath or affirmation, and for that purpose the Chairman of the Council may administer an oath or affirmation;
- (b) may require any person (whether or not a registered person) to provide information or documentation that appears to be relevant to a matter, if the disclosure of that information or documentation is not prohibited under any Act;
- (c) shall afford the registered person and the Committee, or a member of the Committee, every facility—
 - (i) to appear before the Council;
 - (ii) to be represented by a barrister and attorney;
 - (iii) to call or cross-examine witnesses; and
 - (iv) generally to make a full defence or explanation in the matter of the complaint.

(3) A person under subsection (2)(b) may be summonsed to appear before the Council and provide evidence that is determined by the Council to be relevant to a matter.

(4) Following its enquiry, the Council shall make a decision as to whether the complaint is proved or not proved, in whole or in part, together with reasons for its decision.

(5) If the Council decides that a complaint is not proved, in whole or in part, it shall dismiss the complaint to the extent that it is not proved.

(6) If the Council decides that a complaint is proved, in whole or in part, it shall record a finding to that effect and it may make any order of a disciplinary nature as it sees fit in respect of a registered person against whom the complaint is made, including an order—

- (a) admonishing the registered person;
- (b) suspending the registered person from practice as a medical practitioner for such period as it sees fit or for an indefinite period;
- (c) striking the name of the registered person off the register;

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(d) imposing conditions or limitations with regard to the registered person's practice as a medical practitioner.

(7) The Council shall give written notice to the complainant and the registered person against whom a complaint is made of its decision under subsection (4) and any order made by the Council under subsection (6), together with reasons.

(8) The registered person against whom the complaint is made may appeal to the Supreme Court against a decision or order of the Council in the manner provided in section 25.

(9) Any proceedings in connection with the holding of an enquiry by the Council under this section shall, for the purpose of the provisions of the Criminal Code Act 1907 relating to perjury, be deemed to be judicial proceedings.

(10) A member of the Council who was involved in the matter complained of may not participate in an enquiry by the Council under this section.

(11) A person who is suspended from practice under this section shall, for the duration of the suspension, be deemed not to be registered.

[Section 13 subsection (1) amended by 2006:15 s.8 effective 15 August 2006; repealed and replaced by 2016 : 3 s. 14 effective 1 April 2016]

Mandatory reporting of impaired registered persons

13A (1) Every person, other than a person mentioned in subsection (2), who reasonably believes that a registered person is drug or alcohol impaired while performing his professional functions shall immediately report this belief whether orally or in writing—

(a) if in a hospital, to the Chief of Staff of the hospital for his attention; or

(b) if not in a hospital, to the Chief Medical Officer for his attention,

outlining the circumstances or information upon which the reasonable belief is based.

(2) A health care professional who reasonably believes that a registered person is drug or alcohol impaired while performing his professional functions shall immediately report this belief in writing—

(a) if in a hospital, to the Chief of Staff of the hospital for his attention; or

(b) if not in a hospital, to the Chief Medical Officer for his attention,

outlining the circumstances or information upon which the reasonable belief is based.

(2A) The Chief of Staff of the hospital shall, as soon as practicable after receiving a report made to him under subsections (1)(a) and (2)(a), inform the Chief Medical Officer in writing of such report.

(2B) The Chief Medical Officer shall, as soon as practicable after receiving a report made to him by the Chief of Staff of the hospital under subsection (2A), inform the Committee in writing of such report.

(3) In this section, "health care professional" includes—

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- (a) a registered person;
- (b) a nurse;
- (c) a dentist;
- (d) a pharmacist;
- (e) a police officer;
- (f) the Chief of Staff of a hospital; and
- (g) any other person who performs professional or official duties,

acting in the course of that person's professional or official duties, in any hospital or institution administering health care to persons.

(4) Subsections (1) and (2) apply whether or not the information is confidential or privileged, except that nothing in this section affects or abrogates the privilege that attaches to a communication between an attorney-at-law and his client.

(5) No civil action lies against a person by reason of that person reporting information pursuant to subsection (1) or (2) unless the reporting of that information is done falsely, maliciously or with intent to deceive.

(6) No person shall reveal or be compelled to reveal the identity of a person who has reported information to the Chief of Staff or the Chief Medical Officer, as the case may be, pursuant to subsection (1) or (2).

(7) Every person who—

- (a) contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$1,000;
- (b) contravenes subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding \$2,000; or
- (c) falsely, maliciously or deceptively reports information indicating that he reasonably believes that a registered person is drug or alcohol impaired while performing his professional functions commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.

[Section 13A inserted by 2006:15 s.9 effective 15 August 2006; subsections (2A) and (2B) inserted by 2016 : 3 s. 15 effective 1 April 2016]

Striking off

14 (1) Where a registered medical practitioner—

- (a) is convicted whether in Bermuda or elsewhere of any offence and as a result of that conviction is sentenced to a term of imprisonment without the option of a fine; or
- (b) is found by the Council to be guilty of professional misconduct; or

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- (c) is ordered to have his name struck off any medical register maintained and kept in any place outside Bermuda,

then in any such case—

- (i) it shall be the duty of the registered medical practitioner to inform the Council in the circumstances set out in paragraph (a) or (c);
- (ii) it shall be the duty of the Council, if they are satisfied as to the truth of any of the matters specified in paragraphs (a), (b) and (c), and after giving the registered medical practitioner every opportunity to make such explanation as he may wish to do, to decide as soon as may be whether the name of the medical practitioner should be struck off the register:

Provided that the name of a registered medical practitioner shall not be struck off the register on account of his adopting or refraining from adopting the practice of any particular theory of medicine or surgery.

(2) Where the Council decide that the name of a registered medical practitioner should be struck off the register they shall so inform the Permanent Secretary; and the Permanent Secretary shall cause the registered medical practitioner to be informed by written notice accordingly.

(3) A registered medical practitioner shall be entitled to appeal against any such decision of the Council to the Supreme Court in the manner provided in section 25.

(4) The Permanent Secretary, where the Council decide that the name of a registered medical practitioner should be struck off the register—

- (a) shall, on the thirtieth day after he has given notice to the registered medical practitioner under subsection (2), cause the name of the registered medical practitioner to be struck off the register, unless in the meantime an appeal has been duly entered in respect of the decision; or
- (b) shall, where an appeal is duly entered, and where the appeal is subsequently dismissed by the Supreme Court, cause the name of the registered medical practitioner to be struck off the register,

and in either such case the Permanent Secretary—

- (i) shall cause the medical practitioner to be informed by written notice that his name has been struck off the register; and
- (ii) shall by a notice given as aforesaid require the medical practitioner to return his certificate of registration within seven days after receiving the notice; and
- (iii) shall cause a notification of the striking off to be made in the Gazette.

(5) Any registered medical practitioner who contravenes subsection (1)(i) commits an offence against this Act.

Punishment on summary conviction: a fine of \$1680.

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(6) Any person who fails to return his certificate of registration to the Permanent Secretary in accordance with any requirement duly given under subsection (4)(ii) commits an offence against this Act.

Punishment on summary conviction: a fine of \$420.

[Section 14 subsections (1)(b), (3) and (4)(b) amended by 2006:15 s.10 effective 15 August 2006; subsection (4)(a) amended by 2016 : 3 s. 16 effective 1 April 2016]

Striking off for personal or professional unfitness

15 (1) The Council shall have power under and subject to this section to decide that the name of a registered medical practitioner shall be struck off the register.

(2) The Council's power to make in relation to any person a decision referred to in subsection (1) shall arise where they are of opinion that he is unfit, by reason of a defect or defects in his personal character or by reason of his habitual inefficiency or habitual negligence, to have his name continue entered in the register.

(3) It shall be the Council's duty, on or about the first anniversary of the day on which any person was registered as a specialist, to consider whether they will exercise their power under this section in relation to him.

(4) Before making in relation to any person a decision referred to in subsection (1) the Council shall first determine whether there is a prima facie case for exercising their power under this section in relation to him; and, where they so determine, they—

(a) shall give him notice in writing of the fact that, and the reasons why, they have so determined; and

(b) shall then proceed to enquire formally into the matter,

and the provisions of section 13 and section 14(2) to (4) and (6) shall have effect mutatis mutandis in relation to, and in consequence of, such an enquiry by the Council as those provisions have in relation to and in consequence of, an enquiry by the Council into an allegation made against a registered medical practitioner of professional misconduct.

[section 15 subsection (4) amended by 2006:15 s.11 effective 15 August 2006]

Voluntary removal

16 Any registered medical practitioner may apply to the Permanent Secretary to have his name removed from the register and upon receiving any such application the Permanent Secretary shall cause his name to be removed accordingly.

Suspension

17 (1) Where it appears to the Council that a registered medical practitioner—

(a) is inefficient or negligent in carrying out his professional functions; or

(b) has become incapable of properly carrying out his professional functions by reason of old age or mental or bodily infirmity; or

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- (c) is addicted to alcohol or drugs to an extent which makes him unfit to carry out his professional functions or was drug or alcohol impaired while carrying out those functions; or
- (d) throughout the period of three years immediately preceding the time when the Council consider the matter did not meet one or other of the following conditions (but so that proof of the contrary shall be upon him), that is to say—
 - (i) he practised medicine or surgery in Bermuda;
 - (ii) he practised medicine or surgery somewhere; or
- (e) having been registered as a specialist, has practised medicine or surgery in Bermuda otherwise than in accordance with the terms of his registration as a specialist; or
- (f) has contravened the duty imposed on him by section 13A(6) of the Bermuda Hospitals Board Act 1970 (fees);

the Council, after holding an enquiry into the matter, may, if they find the matter proved, decide to suspend the registered medical practitioner from the practice of medicine and surgery for such period as they think fit, or, where the circumstances so require, for an indefinite period.

- (2) The provisions of sections 13 and 14 relating to—
 - (a) enquiries held by the Council;
 - (b) notification of the findings and decisions of the Council; and
 - (c) the right of appeal against such findings or decisions of the Council,

shall apply as nearly as may be to enquiries held by the Council under this section and to connected matters arising therefrom.

(2A) Where a medical practitioner is suspended from practice under this section, he shall be required to return his certificate of registration within seven days to the Permanent Secretary; however, his name shall not be struck off the register.

(3) A medical practitioner suspended from practice under this section shall, until the termination of the suspension under section 19, be deemed for the purposes of sections 2 and 4, and for the purposes of any other Act, not to be a registered medical practitioner.

[Section 17 amended by 1996:17 effective 8 July 1996; subsection (1)(c) amended by 2006:15 s.12 effective 15 August 2006; subsection (2) repealed and replaced and subsection (2A) inserted by 2016 : 3 s. 17 effective 1 April 2016]

Reprimand

18 (1) Where it appears to the Council that a condition specified in section 17(1)(a), (b), (c), (e) or (f) obtains in the case of a registered medical practitioner, the Council may, subject to subsection (2) of this section, direct the Permanent Secretary to record in the register, against the name of the registered medical practitioner, a reprimand in such terms as the Council consider appropriate to the circumstances of the case.

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(2) The provisions of sections 13 and 14 relating to enquiries to be held by the Council, notification of findings and decisions of the Council and a right of appeal against any such finding or decision shall apply as nearly as may be in relation to any proceedings under this section as those provisions apply in relation to proceedings under those sections.

Additional disciplinary powers of Council

18A (1) In addition to the powers conferred by sections 14, 15, 17 and 18, after holding an enquiry into the matter, the Council may, if it finds the matter proved and depending on the nature and seriousness of the offence—

- (a) impose one or more of the following conditions on the person's registration—
 - (i) a condition restricting the places and times at which the applicant may provide medical treatment;
 - (ii) a condition limiting the kind of medical treatment that the applicant may provide;
 - (iii) a condition requiring that the applicant is supervised in the provision of medical treatment, by a particular person or by a person of a particular class;
 - (iv) any other conditions that the Council thinks fit;
- (b) admonish, warn or censure the person;
- (c) require the person to pay to the Council a fine not exceeding \$2,000;
- (d) suspend the person's registration on a specified register or in a specified specialty for a period not exceeding one year;
- (e) disqualify the person from being registered in a specified specialty;
- (f) stipulate that any condition, disqualification or prohibition imposed under this Act is to apply—
 - (i) permanently;
 - (ii) for a specified period;
 - (iii) until the fulfilment of specified conditions; or
 - (iv) until a further order; and
- (g) stipulate that an order relating to a person is to have effect at a specified future time and impose conditions as to the conduct of the person or the person's business until that time.

(2) Where a court finds a person guilty of an offence and the circumstances of the offence form, in whole or in part, the subject matter of a complaint under this Act, the person shall not be liable to a fine under this section in respect of the conduct giving rise to the offence.

(3) The Council may—

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- (a) fix a period within which a fine imposed under this section shall be paid; and
 - (b) on application by a person liable to pay a fine imposed under this section, extend the period within which the fine shall be paid.
- (4) A fine imposed under this section is recoverable by the Council as a debt.
- (5) If a person fails to pay a fine imposed under this section, the Council may strike his name from the register in accordance with section 14.

[section 18A inserted by 2006:15 s.13 effective 15 August 2006]

Restoration of name

19 (1) Where—

- (a) the name of a medical practitioner has been struck off the register under section 14 or 15 or summarily struck off under section 28; or
 - (b) the name of a medical practitioner has been removed from the register under section 16; or
 - (c) a medical practitioner has been suspended from practice under section 17,
- the medical practitioner, at any time after the expiration of three months from the date of the striking off, removal or suspension, as the case may be, shall be entitled to apply from time to time to the Council for his name to be restored to the register or, as the case may be, for the suspension to be terminated.

(2) Upon any such application as aforesaid the Council, having regard, as in the circumstances may be material—

- (a) to the character of the medical practitioner;
- (b) to his conduct subsequent to his name being struck off or subsequent to his suspension;
- (c) to the nature of the matter in respect of which the striking off or suspension occurred;
- (d) to his professional ability; and
- (e) to the other circumstances of the case,

may decide that his name be restored to the register or, as the case may be, that the suspension be terminated.

(3) The Council, in connection with a decision made under subsection (2), may declare it to be a condition of the restoration of the name of a medical practitioner to the register, or of the termination of his suspension from practice, that the medical practitioner shall pass a fresh qualifying examination as though he were, for the purposes of section 7, a duly eligible applicant for registration.

(4) The Council shall in every case inform the Permanent Secretary of their decision under subsection (2); and the Permanent Secretary shall take such steps—

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- (a) to inform the medical practitioner accordingly;
- (b) to make such entries, deletions or otherwise in the register; and
- (c) to forward a certificate of registration to the medical practitioner,

as in the circumstances may be necessary to give effect to the decision.

(5) Where the Council do not decide that the name of a medical practitioner should be restored to the register or, as the case may be, that his suspension from practice should be terminated, the medical practitioner may appeal to the Supreme Court in the manner provided in section 25.

[section 19 subsection (5) amended by 2006:15 s.13A effective 15 August 2006]

Armed forces medical officers

20 (1) A medical officer of the armed forces, during any period while he is in Bermuda, shall by virtue of his appointment, and subject as hereinafter in this section provided, have the powers and privileges conferred by this or any other Act upon a medical practitioner, and shall for the purposes of this Act be an exempted medical practitioner:

Provided that for the purposes of sections 2, 3 and 4 a medical officer of the armed forces shall not, (except to the extent to which he may be specifically permitted to do otherwise by virtue of subsection (2), and except in case of emergency which shall be interpreted liberally) be entitled to practise medicine or surgery—

- (a) except upon or in relation to a person who is a member of the armed forces; or
- (b) except upon or in relation to a person who is employed directly by the armed forces; or
- (c) except upon or in relation to a person who belongs to the family of any member of the armed forces; or
- (d) where the medical officer is a medical officer of the naval, military or air forces of Her Majesty, except upon or in relation to the following persons (in addition to those persons mentioned in the foregoing paragraphs of this proviso)—
 - (i) a person who is a member of any cadet corps maintained in Bermuda, where such person is in annual camp or is otherwise undergoing actual military training;
 - (ii) a person who is employed by the Navy, Army and Air Force Institutes;
 - (iii) a person who is eligible for payment of a pension in respect of any disablement occurring as a result of service in the naval, military or air forces of Her Majesty, where such person is undergoing medical or surgical treatment with a view to the amelioration of the condition which gives rise to his eligibility for the payment of the pension in question; and

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- (iv) a person who is entitled by virtue of the provisions of any Act of the Parliament of the United Kingdom relating to health services, or of any regulation, order or rule made thereunder, to receive without charge medical or surgical treatment in Bermuda.

(2) Notwithstanding anything in subsection (1), where it appears to the Governor, acting in his discretion after consultation with the Council, to be in the public interest to do so, the Governor, acting in his discretion, may by permission in writing authorize a medical officer of the armed forces to practise medicine or surgery otherwise than as mentioned in the proviso to subsection (1) but subject to such conditions or limitations as the Governor acting in his discretion thinks fit to impose; and the practice of medicine and surgery by a medical officer of the armed forces in accordance with the terms of any such permission shall not be a contravention of this section.

(3) In this section—

- (a) “armed forces” means any of the naval, military or air forces of Her Majesty or of the United States of America;
- (b) “medical officer”, in relation to any of the armed forces, means a medical officer holding a commission therein.

Authorized visiting practitioner

21 (1) Notwithstanding anything in the foregoing provisions of this Act, it shall be lawful for the Council, subject to this section, to authorize for special reasons a person lawfully practising medicine or surgery overseas (in this Act referred to as an “authorized visiting practitioner”) to practise medicine or surgery in Bermuda for a limited period and subject to such conditions and restrictions as the Council may think fit to impose; and subject to the terms of the authorization and to this section, any such person as aforesaid shall have the powers and privileges conferred by this or any other Act upon a registered medical practitioner, and shall for the purposes of this Act be an exempted medical practitioner.

(2) The following provisions shall have effect with respect to the granting to an authorized visiting practitioner of an authorization to practise medicine or surgery—

- (a) the Council shall satisfy themselves—
 - (i) as to the need for the authorization; and
 - (ii) as to the professional qualifications; and general suitability of the authorized visiting practitioner to satisfy that need;
- (b) the authorization shall be in the prescribed form;
- (c) the authorization shall not be expressed to have effect for a period longer than three months from the date of its being granted, subject to a power of the Council to extend the period by a further period of six weeks;
- (d) the authorization shall specify the nature of the practice which is permitted;

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(e) the authorization shall specify such other special conditions or restrictions connected with the practice of medicine or surgery in Bermuda by the authorized visiting practitioner as the Council may think fit to impose.

(3) An authorized visiting practitioner shall not sign any certificate required under any Act to be signed by a medical practitioner; and any such certificate purporting to be signed by an authorized visiting practitioner shall be of no effect.

(4) An authorization granted under this section shall be revocable by the Council at any time during its period of validity; and upon its revocation the authorization shall cease to be of any effect.

(5) Any person (whether or not a medical practitioner) aggrieved by a refusal of the Council to grant an authorization under this section or by the revocation by the Council of any such authorization, and any authorized visiting practitioner aggrieved by any term contained in any such authorization, may appeal against such refusal, revocation or term, as the case may be, to the Supreme Court in the manner provided in section 25.

[section 21 subsection (5) amended by 2006:15 s.13A effective 15 August 2006]

Locum tenens

22 (1) Notwithstanding anything in the foregoing provisions of this Act, where it appears to the Council that any registered medical practitioner is absent from practice for a substantial period of time and that it is desirable that another person should undertake his duties as a medical practitioner for the period during which the registered medical practitioner is absent from practice then the Council may, subject to this section, authorize a qualified person (hereinafter in this Act referred to as a "locum tenens") to practise medicine or surgery in Bermuda for the purpose of discharging those duties; and subject to the terms of the authorization and to this section, any such locum tenens shall have the powers and privileges conferred by this or any other Act upon a registered medical practitioner and shall, for the purposes of this Act, be an exempted medical practitioner.

(2) Schedule 3 shall have effect as to the grant of authorizations for the practice of medicine or surgery under this section.

(3) An authorization granted under this section shall be revocable by the Council at any time during its period of validity; and upon its revocation the authorization shall cease to be of any effect.

(4) Any person aggrieved by a refusal of the Council to grant an authorization under this section or by the revocation by the Council of any such authorization and any locum tenens aggrieved by any term contained in any such authorization may appeal against such refusal, revocation or term, as the case may be, to the Supreme Court in the manner provided in section 25.

(5) Nothing in this section shall be construed so as to abridge or derogate from the Bermuda Immigration and Protection Act 1956 *[title 5 item 16]*.

[Section 22 subsections (2) and (4) amended by 2006:15 s.14 effective 15 August 2006; subsection (1) amended by 2016 : 3 s. 18 effective 1 April 2016]

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House Officers

23 (1) The appropriate conditions referred to in section 7A subject to which a house officer is entitled to practise medicine or surgery as a provisionally registered medical practitioner are as set out in this section.

(1A) For the purposes of sections 2, 3 and 4 a house officer shall not (except in case of emergency), practise medicine and surgery—

- (a) except on or in relation to a person who is a patient in the hospital in which he is employed; and
- (b) except under the effective supervision of a registered medical practitioner.

(2) A house officer shall not sign any certificate required under any Act to be signed by a medical practitioner, and any such certificate purporting to be signed by a house officer shall be of no effect.

(3) In this section—

- (a) “house officer” means a person—
 - (i) who is entitled, by virtue of a degree, diploma or other qualification, to practise medicine or surgery outside Bermuda; and
 - (ii) who is employed on a temporary basis in the King Edward VII Memorial Hospital or in any other approved hospital for the purpose of obtaining experience in the practice of medicine or surgery;
 - (iii) whose terms of employment require his practice of medicine or surgery to be limited to practice upon or in relation to patients in the hospital in which he is employed, and to be limited to practice under the effective supervision of a registered medical practitioner; and
- (b) “approved hospital” means a hospital or institution other than the King Edward VII Memorial Hospital which is for the purposes of this section approved by the Minister in consultation with the Council.

[section 23 subsection (1) substituted, (1A) inserted, title and subsections (2) and (3) amended by 2006:15 s.15 effective 15 August 2006]

Unauthorized practice by section 20, 21 or 22 exempted practitioner

24 Any exempted medical practitioner who practises medicine or surgery in Bermuda otherwise than in accordance with (as the case may be) section 20, section 21 or section 22 or commits an offence against this Act.

Punishment on summary conviction: a fine of \$1680.

[section 24 amended by 2006:15 s.16 effective 15 August 2006]

Appeals

25 (1) A person aggrieved by a decision of the Council under this Act may, within 28 days after the date on which the decision is given to the person by the Council, appeal to the Supreme Court against the decision.

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(2) On an appeal under this section, the Supreme Court may make such order in the matter as it thinks proper, including an order as to the costs of the appeal.

(3) An order of the Supreme Court under subsection (2) is final.

(4) The practice and procedure to be followed in relation to an appeal under this section are as prescribed by rules of court.

(5) The Council may appear as respondent on such appeal and, whether they appear at the hearing of the appeal or not, they shall be deemed to be a party to the appeal for the purpose of enabling directions to be given as to the costs or expenses of the appeal.

[section 25 amended by 2006:15 s. 17 effective 15 August 2006. Words "to him" removed on consolidation as missed consequential on substitution of "Supreme Court" for "Governor"; repealed and replaced by 2016 : 3 s. 19 effective 1 April 2016]

Unqualified person signing medical certificate

26 Without prejudice to any provision of this or any other Act, a person who, not being a registered medical practitioner or a medical officer of the armed forces, signs any certificate required by any Act to be signed by a medical practitioner or any document purporting to be such a certificate, commits an offence against this Act.

Punishment on summary conviction: a fine of \$840 or imprisonment for 3 months or both such fine and imprisonment.

False statements

27 Any person who, in connection with any application or other matter falling to be performed under this Act—

- (a) makes any statement knowing or having reason to believe it to be false in a material particular; or
- (b) produces any certificate, diploma or other document knowing or having reason to believe the same to be false,

without prejudice to anything in the Criminal Code [*title 8 item 31*], commits an offence against this Act.

Punishment on summary conviction: a fine of \$1680 or imprisonment for 6 months or both such fine and imprisonment.

Punishment on conviction on indictment: a fine of \$8400 or imprisonment for 12 months or both such fine and imprisonment.

Striking off on conviction under section 27

28 Where any person is convicted of an offence under section 27, if his name has already been entered in the register, it may, at the discretion of the Minister, be summarily struck off the register.

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Saving for ship's surgeons

29 Nothing in the foregoing provisions of this Act shall be construed so as to prevent the practice of medicine or surgery by any medical practitioner employed as such in any ship or aircraft which is not registered in Bermuda, in so far as such practice is confined—

- (a) to practice on board the ship or aircraft in question; and
- (b) to practice upon or in relation to members of the crew of the ship or aircraft or to persons who are bona fide passengers upon that ship or aircraft.

Annual report

29A The Council shall, not later than January after the end of each calendar year, submit a report to the Minister on the activities of the Council and the Committee.

[Section 29A inserted by 2006:15 s.18 effective 15 August 2006; amended by 2016 : 3 s. 20 effective 1 April 2016]

Minister may make regulations

30 (1) The Minister may make regulations for carrying this Act into effect; and without prejudice to the generality of the foregoing provision such regulations may provide—

- (a) for prescribing the forms, notices or other documents to be used for any of the purposes of this Act;
- (b) for specifying the manner in which notices shall or may be served;
- (c) for prescribing documents required to be forwarded with applications for registration under this Act;
- (ca) for prescribing the procedure to be followed on an investigation pursuant to sections 12AA and 12A;
- (cb) for prescribing the procedure to be followed on an enquiry pursuant to section 13; and
- (d) for prescribing any other matter or thing which by or under this Act may be or is to be prescribed.

(2) *[omitted] [covered by Interpretation Act 1951 section 35]*

(3) The negative resolution procedure shall apply to regulations made under this section.

(4) *[omitted] [covered by Interpretation Act 1951 section 35]*

(5) The Minister shall consult the Council before making, revoking or varying any regulations under this section.

[Section 30 subsection (1) amended by 2016 : 3 s. 21 effective 1 April 2016]

References to medical practitioners in other Acts

31 Any reference in any other Act to a medical practitioner or to a registered medical practitioner shall, unless the context otherwise requires, and subject as hereinafter

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provided, be construed as a reference to a medical practitioner who is by virtue of this Act a registered or exempted medical practitioner:

Provided that where any reference as aforesaid in any other Act relates to the issue or signature of any certificate relating to the health or illness of any person, or to the death or cause of death of any person, or to the still birth of any child or to the sanitary condition of any premises, then any such reference shall, unless the context otherwise requires, be construed as a reference to a medical practitioner who is for the purposes of this Act a registered medical practitioner or a medical officer of the armed forces.

Transitional provisions

32 *[omitted]*

Commencement

33 *[omitted]*

SCHEDULE 1

(Section 5(8))

BERMUDA MEDICAL COUNCIL

1 (1) A member shall hold office for the period of three years (or such longer period as the Minister may determine), and a person may be so appointed who has previously been a member.

(2) A member (other than the Chief Medical Officer) may not at any time be appointed to a third consecutive term of membership, but, subject to that, a member may be re-appointed.

2 The Chairman or, in his absence, the Vice-Chairman, shall preside at any meeting of the Council.

3 A meeting of the Council may not be held unless three members of the Council, being members entitled to vote at meetings of the Council, and the Chief Medical Officer in addition, are present.

4 (1) The Council shall meet as often as may be necessary for them to dispatch their business under this Act.

(2) There shall not be less than two Council meetings in a calendar year.

5 A minute shall be made of every meeting of the Council in such form as the Minister may direct.

6 All acts of the Council shall be decided by the votes of a majority of members present at any meeting so, however, that—

(a) if the votes are equal, the person presiding shall have, in addition to his vote as a member of the Council, a casting vote; and

(b) neither the Chief Medical Officer nor either of the members of the Council appointed under section 5(3)(b) shall have a vote.

7 (1) A member of the Council shall advise the Chairman if he is personally acquainted with any matter before the Council and may, with the leave of the Chairman, withdraw on that ground 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 to be a member of the Council for the purpose of those proceedings, and the Minister may, if he thinks fit, make such an appointment, whereupon the person so appointed shall be deemed to be a member of the Council for such purpose.

8 A member of the Council (other than the Chief Medical Officer) may resign his office at any time by giving notice in writing to the Minister of his resignation.

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- 9 The Minister may declare the office of a member of the Council vacant if—
- (a) the Minister is satisfied that the member is unable through mental or physical incapacity to perform the functions of his office; or
 - (b) the member has failed without adequate cause to attend three successive meetings of the Council.

10 Where a member's place becomes vacant before the expiration of his term, the vacancy shall be filled in the same manner as that by which he became a member.

11 A person appointed or elected to fill the place of a member of the Council who vacates office before the expiry of his term of office shall hold office for so long only as the member whose place he fills would have held office.

12 Where a member of the Council vacates his office three months or less before the expiry of his term of office, the vacancy need not be filled.

13 (1) Subject to section 7 or 8 of this Act, the Council may, in its discretion, appoint from among its own members or from among other persons, such number of committees as it thinks fit for purposes which, in the opinion of the Council, would be more expediently carried out and managed by such committees.

(2) The Chairman of any committee appointed under subsection (1) shall be a member of the Council.

14 Subject to this Act, the Council may regulate their affairs and proceedings as they think fit.

[Schedule 1 repealed and replaced by 2016 : 3 s. 22 effective 1 April 2016]

SCHEDULE 2

(Section 12AA(6))

MEDICAL PRACTITIONERS PROFESSIONAL CONDUCT COMMITTEE

1 The Committee shall consist of three members appointed by the Minister, as follows—

- (a) one from a list of at least three registered medical practitioners in good standing nominated by the Bermuda Medical Doctors Association;
- (b) one from a list of at least three registered medical practitioners in good standing nominated by the Council;
- (c) one professionally qualified person who is not a registered medical practitioner.

2 A person who is a member of the Council may not be appointed as a member of the Committee.

3 Appointment as a member under paragraph 1 shall be made for a term not exceeding three years and a member is eligible for re-appointment.

4 The Minister may appoint a second person to act as alternate to a member appointed under paragraph 1.

5 An alternate member shall be appointed in accordance with the requirements for the appointment of the member, and his term of appointment shall, if not sooner terminated, end at the expiration of the term of the member.

6 The Minister shall appoint a member of the Committee to be the Chairman, who shall—

- (a) preside at Committee meetings; and
- (b) perform any other functions assigned to him in accordance with this Act.

7 If at any time the Chairman ceases to be a member of the Committee, or for any other reason ceases to be the Chairman, the Minister shall, as soon as may be, appoint from among the members of the Committee another person to be Chairman in his stead.

8 Three members of the Committee shall form a quorum at any meeting.

9 (1) Where any complaint is before the Committee, a member of the Committee shall advise the Chairman if he is personally acquainted with the facts of the case and may, with leave of the Chairman, withdraw on that ground or for any other reason which the Chairman deems sufficient; and the Chairman may himself withdraw on any such ground.

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(2) Where a member has so withdrawn, the Chairman may request the Chairman of the Council to nominate a member of equal standing as the withdrawn member to be a member of the Committee for the purpose of those proceedings, and the Minister may make such appointment, whereupon the person so appointed shall be deemed to be a member of the Committee for such purpose.

10 A minute shall be made of every meeting of the Committee in such form as the Minister may direct.

11 Fees shall be paid to members of the Committee in accordance with the Government Authorities (Fees) Act 1971.

12 The validity of any act or proceedings of the Committee shall not be affected by any vacancy among the members of the Committee or by any defect in the appointment of a member of the Committee or of the Chairperson.

13 The Committee shall, not later than 31 January after the end of each calendar year, submit a report on its activities for the preceding year to the Council and the Chief Medical Officer.

14 A member of the Committee may resign his office at any time by giving notice in writing to the Minister of his resignation.

15 The Minister may declare the office of a member of the Committee vacant if—
(a) the Minister is satisfied that the member is unable through mental or physical incapacity to perform the functions of his office; or
(b) the member has failed without adequate cause to attend three successive meetings of the Committee.

16 Where a member's place becomes vacant before the expiration of his term, the vacancy shall be filled in the same manner as that by which he became a member.

17 A person appointed or selected to fill the place of a member of the Committee who vacates office before the expiry of his term of office shall hold office for so long only as the member whose place he fills would have held office.

18 Where a member of the Committee vacates his office three months or less before the expiry of his term of office, the vacancy need not be filled.

19 Subject to this Act, the Committee shall regulate its own proceedings.

[Schedule 2 inserted by 2006:15 s.19(c) effective 15 August 2006; repealed and replaced by 2016 : 3 s. 23 effective 1 April 2016]

SCHEDULE 3

(Section 22(2))

AUTHORIZATIONS FOR LOCUM TENENTES

1 It shall be the duty of the Council to satisfy themselves as to the need for an authorization to be granted, and as to the professional and other suitability of any person in respect of whom an authorization is sought to satisfy that need.

2 Every authorization shall specify the nature and extent of the practice which it authorizes.

3 The Council may attach to the grant of an authorization such conditions as they think fit, but so that, except as provided in paragraph 4, every authorization shall be subject to the following restrictions—

- (a) any one authorization shall not be valid for any period in excess of three months;
- (b) an authorization shall not be granted to any person after the expiration of one year commencing on the date on which an authorization was first granted to him after the commencement of the Medical Practitioners Amendment Act 1980 (in this Schedule called the “locum year”);
- (c) an authorization or authorizations may not authorize more than three months practice in all during the locum year.

4 The restrictions specified in sub-paragraphs (b) and (c) of paragraph 3 shall have no application in relation to a person who has passed a qualifying examination, and it shall be competent for the Council to grant to any such person as many authorizations as the Council deem fit.

5 The Council shall have power to set and conduct qualifying examinations for the purposes of persons wishing to obtain the benefit of paragraph 4; and section 7(6)(d) has no application in relation to any such person:

Provided that, where a person has not passed a qualifying examination during his locum year, the Council shall not permit him to take such an examination unless they are in receipt of an application for an authorization in respect of him.

[Assent Date: 13 June 1950]

[This Act was brought into operation on 1 November 1950 by GN 44/1950]

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[Amended by:

1951 : 93
1951 : 78
1952 : 11
1970 : 1
1970 : 390
1971 : 41
1971 : 43
1971 : 83
1973 : 51
1973 : 54
1976 : 7
1977 : 35
1980 : 66
1996 : 17
2006 : 15
2016 : 3]