

SAMOA

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2014, No.24

AN ACT to establish the Allied Health Profession Council, to provide for its functions, duties and powers and to provide for the registration of allied health professionals, and for related purposes. *[28th October 2014]*

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

PART I
PRELIMINARY

1. Short title and commencement-(1) This Act may be cited as the Allied Health Professions Act 2014.

(2) This Act commences on the date of assent by the Head of State.

2. Interpretation - In this Act, unless the context otherwise requires:

“allied health profession” means an allied health profession listed in the Schedule;

“allied health professional” means a person registered as such in any allied health profession;

- “appointed member” means a person appointed under section 4(1)(b) to (g) as a member of the Council;
- “approved form” means a form approved under section 40(3);
- “Council” means the Allied Health Profession Council established by section 3;
- “Director-General of Health” means the Chief Executive Officer of the Ministry;
- “fee” means a fee approved under section 40(1);
- “member” means a member of the Council specified under section 4;
- “Minister” means the Minister responsible for Health;
- “Ministry” means the Ministry of Health;
- “practice”, in relation to a registrant, means the practice in relation to the allied health profession for which the registrant is registered under Part III;
- “register” means the register of allied health professionals kept by the Registrar under the Healthcare Professions Registration and Standards Act 2007;
- “registrant” means a person who is authorised as such under Part III;
- “Registrar” means the Registrar appointed under the Healthcare Professions Registration and Standards Act 2007;
- “Secretary” means the member of the Council appointed under section 6 as Secretary of the Council;
- “temporary registration” means a temporary registration issued under Division 4 of Part III.

PART II

ALLIED HEALTH PROFESSION COUNCIL

3. Establishment of the Council - The Allied Health Profession Council is established, as a body corporate with perpetual succession, and may:

- (a) enter into contracts;
- (b) hold property;
- (c) sue and be sued in the name of the Council; and
- (d) do any other thing a body corporate may do in law.

4. Members of the Council-(1) The Council consists of the following members:

- (a) the Director-General of Health;
- (b) two (2) members to represent the community;
- (c) a member to represent the Clinical Treatment Services;
- (d) a member to represent the Complementary and Alternative Health Therapies;
- (e) a member to represent the Population Health Services;
- (f) a member to represent the Mental Health and Wellbeing;
- (g) a member to represent the Applied Health Science Services;
- (h) a member to represent traditional health practices.

(2) The Minister may appoint the members under subsection (1)(b) to (h) for three (3) years, and the appointed members are eligible for re-appointment, subject to subsection (5).

(3) The Council:

- (a) must elect an appointed member who is an allied health professional, as Chairperson of the Council; and
- (b) may re-elect pursuant to paragraph (a) another Chairperson after the expiration of 12 months if it is not satisfied with the performance of the current Chairperson.

(4) The Council may co-opt a person to attend the meeting of the Council to advise the Council on a matter but the person has no right to vote on a matter before the Council.

(5) When re-appointing a member of a service under subsection (1)(c) to (h), the Minister must ensure that the appointed member is rotated amongst the groups of the allied health professions within that service.

(6) A reference to a service under subsection (1)(c) to (h) is a reference to the service (by whatever name it is called) substantially carrying out the functions of that service.

5. Duties and powers of the Council-(1) The Council has the following duties:

- (a) to administer the procedures applying to the registration and discipline of allied health professionals, as provided for by this Act and the Healthcare Professions Registration and Standards Act 2007;
- (b) to review the qualification requirements and professional standards for each of the allied health professions taking into account changes in the health and education sectors;
- (c) to maintain a registration system for allied health professions under this Act;
- (d) to assist the Registrar to effectively monitor and enforce the approved professional standards and notify the Registrar of suspected breaches for investigations to be undertaken;
- (e) to monitor continuing education and professional development and training;
- (f) to assist in the resolution of professional disputes which may arise between or amongst allied health professionals;
- (g) to carry out other duties under this Act or any other Act.

(2) When carrying out its duties, the Council has the following powers:

- (a) to regulate the allied health professions and allied health professionals under this Act;
- (b) to approve qualification requirements for each allied health profession;
- (c) to take disciplinary action against a registrant pursuant to the Healthcare Professions Registration and Standards Act 2007;
- (d) to carry out other powers under this Act or any other Act.

6. Secretary of the Council-(1) The Council must appoint one of its members as Secretary of the Council.

(2) The Secretary may liaise with the Registrar to ensure the effective implementation of this Act and the Healthcare Professions Registration and Standards Act 2007.

(3) The Secretary must not give a written notice or direction to the Registrar relating to the registration or discipline of an allied health profession, or the determination of professional standards applying to allied health professionals unless:

- (a) the Secretary is authorised in writing by the Council; and
- (b) the notice or direction complies with this Act and the Healthcare Professions Registration and Standards Act 2007.

7. Meetings of the Council-(1) The Chairperson or the Registrar:

- (a) may request the Secretary to convene a meeting of the Council; and
- (b) must ensure that the Council meets at least once a calendar year.

(2) The Secretary must convene a meeting of the Council if requested in writing to do so by at least three (3) members of the Council.

(3) The Council may, in writing, request the Registrar to assist the Council convene its meetings.

(4) The following procedures apply at a meeting of the Council:

- (a) the Chairperson or (if absent) an appointed member who is an allied health professional elected by the members present, presides;
- (b) six (6) members constitute a quorum;
- (c) the chair has a deliberative vote and a casting vote;
- (d) a question is to be determined by a majority of votes of the members present;
- (e) a question relating to an allied health profession which is not represented on the Council must not be determined unless a representative of the profession is present or the Council has consulted the allied health profession.

(5) The Council may regulate its own procedures, subject to this Act.

8. Resolution of the Council-(1) The Council may determine a matter by resolution under this section or procedures made under section 7(5).

(2) The Secretary must send a copy of the draft resolution to all members.

(3) A resolution must be approved by majority of members of the Council indicating their approval in writing or in any other means of electronic communication.

(4) As an exception to subsection (3), the following decisions must be made by resolutions supported by at least two-thirds of all the members:

- (a) a decision to remove a member under section 9;
- (b) a decision relating to disciplinary matter of a registrant; and
- (c) any other prescribed decision.

(5) A resolution that does not comply with this section is void.

9. Removal, vacation and allowances-(1) The Council may remove an appointed member of the Council on one (1) or more of the following grounds:

- (a) inability to perform his or her functions, duties and powers under this Act due to physical or mental incapacity;
- (b) bankruptcy;
- (c) neglect of duty;
- (d) misconduct in office;
- (e) misconduct elsewhere affecting or likely to affect the operations or reputation of the Council;
- (f) failure to disclose and take any reasonable steps to avoid any real or apparent conflict of interest in relation to his or her membership of the Council;
- (g) using information belonging to or under the possession or control of the Council other than for the Council's functions;
- (h) failure to act with integrity as a member of the Council;

- (i) misuse by the member of his or her status or authority as a member of the Council to seek or obtain a benefit for him or her or any other person;
- (j) absence from Samoa for a period exceeding six (6) months without the approval of the Council;
- (k) failure to attend three (3) consecutive meetings of the Council without the approval of the Council;
- (l) conviction in Samoa or another country of a criminal offence;
- (m) any other prescribed ground.

(2) The office of an appointed member is vacated if the member:

- (a) is removed under subsection (1); or
- (b) resigns in writing addressed to the Secretary; or
- (c) dies.

(3) An appointed member is entitled to remuneration or allowances approved by Cabinet to be paid from the funds of the Ministry.

(4) Subsection (3) does not apply to any of the following appointed member:

- (a) a public servant employed or engaged under the Public Service Act 2004 or taken to a public servant under an enactment; or
- (b) an employee of a body listed under the Public Finance Management Act 2001 or the Public Bodies (Performance and Accountability) Act 2001;
- (c) any employee of any Government or State office established by law.

PART III
REGISTRATION OF ALLIED
HEALTH PROFESSIONALS

Division 1 - General

10. Prohibition-(1) A person must not practise as an allied health professional or undertake the business of an allied health profession, unless the person is authorised under this Part.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding two (2) years, or both.

11. Authorisation under this Part - A person is authorised under this Part if the person is a registrant under Division 2, 3 or 4.

Division 2 - Full Registration

12. Power to grant registration-(1) The Council may grant or refuse to grant the registration of a person under this Division, subject to conditions it may impose or to prescribed conditions and to payment of approved fee for registration.

(2) A registration under this Division authorises the registrant to undertake the practice of allied health profession specified in the registration.

13. Qualifications-(1) A person is qualified for registration under this Division if the person:

- (a) holds a formal academic qualification or has experience, training or skills approved by the Council; and
- (b) is of good character and reputation; and
- (c) has any other prescribed qualification, experience, training or skills.

(2) As an exception to subsection (1), the Council may:

- (a) dispense with the requirements under subsection (1) if formal qualification is not required for undertaking the practice of allied health profession; and
- (b) if dispensation is granted, require the applicant to operate under a standard or guideline relating to the allied health profession approved by the Council or prescribed by regulations.

14. Who may and how to apply-(1) A person qualified under section 13 may apply for registration to the Council, in the approved form.

(2) The approved form must include the following:

- (a) requirements under section 13(1) in respect of any or all the allied health professions applied for;
- (b) the records, including the courses, of formal academic qualifications;
- (c) records of experience, training or skills, including continuing education;
- (d) evidence of registration in another country as an allied health professional;
- (e) evidence of any disciplinary action in Samoa or elsewhere against the applicant as an allied health professional or any other health profession;
- (f) any other prescribed matter.

(3) The applicant must provide the following evidence of qualification, skills, training and experience:

- (a) the original or a certified copy of academic qualification;
- (b) certified copy of academic records;
- (c) certified copy of documents on experience, skill or training;
- (d) reference from at least two (2) persons on the experience, skills and conduct of the applicant;
- (e) any other prescribed document.

(4) The Council may require the applicant to provide additional information to support the application.

(5) The applicant must ensure that the requirements for registration under this Division are provided with the application.

(6) A registrant who becomes qualified in another allied health profession must apply in the approved form (accompanied by a certified copy of the qualification) to the Council to amend his or her registration and practising certificate to include the new qualification.

15. Processing of applications-(1) The applicant must lodge the application with the Registrar.

(2) When an application is lodged, the Registrar must examine the application to ensure that it contains all the requirements for registration.

(3) If the application does not comply with any requirement for registration, the Registrar must request the applicant to comply with the requirement.

(4) When the Registrar is satisfied that the requirements for registration are met, the Registrar must inform the Secretary to convene a meeting of the Council.

16. Consideration of applications-(1) When considering an application, the Council may:

(a) defer the decision on or refuse the application if the application does not contain all information required for registration; or

(b) require the applicant to personally appear before it to verify information on the application; or

(c) require another person to verify, in any manner it thinks fit, any information on the application; or

(d) require the applicant or any other person to verify information on the application on oath or in any other manner as it thinks fit; or

(e) require the applicant or any other person to provide any additional information on the applicant or the application.

(2) The chairperson of the Council may administer oath for the purpose of this Part.

(3) If the Council refuses to grant the application, it must give reasons for refusing the application.

17. Recording of registration-(1) When a decision to grant or to refuse to grant the application is made by the Council, the Secretary must send a copy of the decision to the Registrar.

(2) The Registrar must:

(a) inform the applicant about the decision; and

(b) for a decision to grant the application, record all the information about the applicant in the register.

18. Certificate of registration-(1) The Registrar must issue a certificate of registration in the approved form, subject to payment by the applicant of the registration certificate fee.

(2) A certificate of registration:

- (a) must set out the allied health profession for which the registrant is registered; and
- (b) may include conditions approved by the Council or prescribed conditions.

(3) A certificate is valid until it is revoked pursuant to the Healthcare Professions Registration and Standards Act 2007.

19. Annual practising certificates-(1) The Registrar may, issue an annual practising certificate to a registrant, on payment of the annual practising certificate fee, subject to any conditions required for the issuance of annual practising certificates.

(2) A registrant may apply in the approved form to the Registrar, within three (3) months before 31 December each year, to issue the annual practising certificate.

(3) If an application is made under subsection (2) but no annual practising certificate is issued by 31 December, the registrant is taken to be issued with the annual practising certificate, subject to the requirements of fees and conditions in subsection (1).

(4) An annual practising certificate:

- (a) if the registrant is registered in more than one (1) allied profession, must set out all the allied health professions covered by the registration, including any conditions;
- (b) must set out the allied health profession for which the registrant is registered, including any conditions; and
- (c) expires on 31 December each year.

Division 3 - Provisional Registration

20. Application of this Division - This Division applies to persons undertaking internships after completing formal academic qualifications or to other prescribed persons.

21. Power to grant provisional registration-(1) The Council may grant provisional registration, subject to conditions and payment of approved fee.

(2) The provisional registration authorises the registrant to undertake supervised work as an allied health professional during the period of internship.

22. Qualifications-(1) A person is qualified under this Division if the person has completed a formal academic qualification relating to an allied health profession.

(2) Regulations under section 38 may prescribe any other person, including the qualification, experience, training or skills, who may qualify for registration under this Division.

23. Who may and how to apply-(1) A person qualified under section 22 may apply to the Council in the approved form.

(2) The applicant must provide in the application the original or a certified copy of his or her academic certificate.

24. Processing of applications - Sections 15 to 18 apply to this Division, with necessary modifications.

25. Practising certificates-(1) When a provisional registration has been issued to a person, the Council may issue a practising certificate authorising the provisional registrant to undertake any practical training in a hospital or other healthcare service in Samoa.

(2) The practising certificate:

(a) expires on 31 December each year, subject to renewal;
and

(b) is to be issued subject to any condition the Council may determine or as prescribed by regulations.

(3) The power to issue practising certificate under this section includes the power to renew, suspend or cancel the certificate and to vary, suspend, cancel or impose new conditions.

Division 4 - Temporary Registration

26. Application of this Division - This Division applies to a registrant who is required under an arrangement or agreement to practise as an allied health professional for a period not exceeding 24 months or other prescribed period, subject to section 31.

27. Power to grant temporary registration - The Council may grant a temporary registration, subject to any directions given by the Council and the payment of approved fee.

28. Qualifications-(1) An applicant must qualify under section 13 in order to be registered under this Division.

(2) An applicant must provide in the application a certified copy of a valid registration or authority in his or her country of practice.

29. Who may and how to apply-(1) A person qualified under this Division may apply to the Council in the approved form.

(2) The applicant must provide in the application the original or a certified copy of his or her academic certificate.

30. Processing of applications - Sections 15 to 18 apply to processing of applications under this Division.

31. Practising certificates-(1) When a temporary registration has been issued to a person, the Council may issue a practising certificate authorising the temporary registrant to undertake the allied health profession authorised by the Council pursuant to any agreement or arrangement mentioned in section 26 or as prescribed by regulations.

(2) The practising certificate:

(a) expires on 31 December, subject to renewal; and

(b) is to be issued subject to any condition the Council may determine or as prescribed by regulations.

(3) The power to issue practising certificate under this section includes the power to renew, suspend or cancel the certificate and to vary, suspend, cancel or impose new conditions.

Division 5 - Review of Decisions

32. Review of decisions-(1) Section 20 of the Healthcare Professions Registration and Standards Act 2007 applies to this Part, with necessary modifications.

(2) References to “Council” and “health professional” in section 20 of the Healthcare Professions Registration and Standards Act 2007 are to be read as references to the “Council” and “allied health professional” respectively under this Part.

PART IV
OFFENCES

33. Re-registration - If the registration of a registrant is refused under this Act or revoked pursuant to the Healthcare Professions Registration and Standards Act 2007, the Council must not consider any application for re-registration of the person for a period determined by the Council of at least two (2) years from the date of refusal or revocation.

34. Wrongfully purporting to be a registrant-(1) A person who is not a registrant commits an offence if the person describes himself or herself as, or holds himself or herself out to be:

- (a) a registrant; or
- (b) a holder of a certificate issued under Part III.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding two (2) years, or both.

35. Wrongfully procuring registration-(1) A person commits an offence who:

- (a) makes or causes to be made a false entry in the Register; or

- (b) procures or attempts to procure registration under this Act for that person or any other person by making a false or fraudulent representation or declaration; or
- (c) provides a false information or forged document in support of an application for registration under this Act.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding two (2) years, or both.

PART V **MISCELLANEOUS**

36. Exemption of liability-(1) This section applies to the following:

- (a) the Ministry;
- (b) the Council;
- (c) the Registrar;
- (d) the Secretary;
- (e) any other person authorised to carry out any function, duty or power under this Act.

(2) A person to whom this section applies is not liable for carrying out or failing to carry out in good faith a function, duty or power under this Act.

37. Service of documents - A document required to be served on a registrant under this Act may be served as follows:

- (a) personally on the registrant;
- (b) by registered post addressed to the registrant's last address recorded in the register;
- (c) in any other manner approved by resolution of the Council.

38. Regulations - The Head of State may, acting on the advice of Cabinet, make regulations to give effect to the provisions or for the purposes of this Act, and in particular may make the following regulations:

- (a) to prescribe other functions, duties and powers for allied health professionals;
- (b) to prescribe matters relating to the administration and finance of the Council;
- (c) to prescribe fines not exceeding 50 penalty units or imprisonment not exceeding 12 months, or both for the breach of any regulation;
- (d) to regulate other requirements for registration or standards and control of allied health professionals (such as, traditional healers and traditional birth attendants) who do not require formal academic qualifications to practise as allied health professional;
- (e) to prescribe matters required under this Act to be prescribed.

39. Schedule-(1) The Schedule sets out the categories of allied health professionals which are required to be registered under this Act.

(2) The Minister may, by notice in the Savali, amend the Schedule.

(3) The Secretary must send a copy of the notice published in the Savali to the Registrar.

40. Fees and forms-(1) The Minister may, on the recommendation of the Council, approve fees, by notice in the Savali, for the purpose of this Act.

(2) All fees collected under this Act are to be paid to the Treasury Fund.

(3) The Council may approve forms for the purpose of this Act.

41. Healthcare Professions Registration and Standards Act 2007 amended - In the Healthcare Professions Registration and Standards Act 2007:

- (a) in section 2, for the definition for “healthcare professional”, repeal paragraph (f); and
- (b) after section 18, insert:

“18A. Automatic revocation of registration-(1) The registration of a healthcare professional is automatically revoked if the healthcare professional:

- (a) is convicted of a serious crime; or
- (b) becomes subject to an order of medical custody under the Mental Health Act 2007.

(2) The revocation is effected from the date of the order, conviction or of final determination of any appeal on conviction.

(3) In this section, “serious crime” means an offence that prescribes a penalty for imprisonment of at least five (5) years.”;

- (c) repeal Part VII (sections 21 and 22); and
- (d) in the Schedule, after “Pharmacy Act 2007” insert “Allied Health Professions Act 2014”.

SCHEDULE
(sections 2 and 39)

ALLIED HEALTH PROFESSIONS

Part 1 - Clinical Treatment Services

- (a) Audiologists
- (b) Dieticians
- (c) Physiotherapists
- (d) Occupational Therapists
- (e) Speech Therapists
- (f) Medical Laboratory Scientists
- (g) Medical Laboratory Technicians
- (h) Qualified Pharmacology Applied Profession Analysts
- (i) Radiographers

Part 2 - Complementary and Health Alternative Therapies

- (a) Acupuncturists
- (b) Massage Therapists, as Health Practice for Healthcare
- (c) Chiropractors
- (d) Podiatrists
- (e) Naturopaths

Part 3 - Traditional Health Practices

- (a) Traditional Healers
- (b) Traditional Birth Attendants

Part 4 - Population Health Services

- (a) Environmental Health Officers
- (b) Health Promotion Officers
- (c) Nutritionists
- (d) Qualified First Aid Officers

Part 5 - Mental Health and Wellbeing

- (a) Counsellors, Psychologists
- (b) Social Workers

Part 6 - Applied Health Science Services

- (a) Biomedical Engineers
- (b) Biomedical Technicians
- (c) Optometrists
- (d) Optometrist Technicians
- (e) Orthotists
- (f) Prosthetists
- (g) Pharmacologists

**The Allied Health Professions Act 2014
is administered by the Ministry of Health.**

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