



Tuvalu

MEDICAL AND DENTAL PRACTITIONERS ACT

2008 Revised Edition

CAP. 28.12



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MEDICAL AND DENTAL PRACTITIONERS ACT

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Tuvalu

MEDICAL AND DENTAL PRACTITIONERS ACT

AN ACT TO MAKE PROVISION FOR THE REGISTRATION OF MEDICAL AND DENTAL PRACTITIONERS AND FOR MATTERS CONNECTED THEREWITH¹

Commencement [16th March 1964]

1 Short title

This Act may be cited as the Medical and Dental Practitioners Act.

2 Interpretation

In this Act, unless the context otherwise requires —

“**dental officer**” means a person registered as a dental officer under this Act;

“**diploma**” includes any degree, fellowship, membership, licence, authority to practice, letters testimonial, certificate or other status document;

“**medical officer**” means a person registered as a medical officer under this Act;

“**the register**” means the Medical and Dental Register to be kept under this Act;

“**registered**” means entered in the register;

“**the Senior Medical Officer**” means the person for the time being performing the duties of Senior Medical Officer in and for Tuvalu.

3 Register

- (1) The Senior Medical Officer shall form and keep, in the manner hereinafter appearing, a register to be known as the “Medical and Dental Register”.

- (2) The register shall be divided into six Parts and the Senior Medical Officer shall enter the name and the qualifications together with any other particulars he may require —
- (a) in Part I, of persons conditionally registered as medical practitioners;
 - (b) in Part II, of persons registered as medical practitioners;
 - (c) in Part III, of persons registered as dental practitioners;
 - (d) in Part IV, of persons conditionally registered as medical officers;
 - (e) in Part V, of persons registered as medical officers;
 - (f) in Part VI, of persons registered as dental officers.

4 Conditional registration of medical practitioners

Subject to section 17 every person shall be entitled to be registered conditionally as a medical practitioner in Part I of the register if he satisfies the Senior Medical Officer that he is the holder of a diploma which would, if any further qualifications required by the provisions of the Imperial Act entitled the Medical Act 1956 or any enactment amending or replacing the same for the time being in force, were fulfilled, entitle him to be registered as a fully registered medical practitioner in the register kept in accordance with such Act:

Provided that a person who might so be entitled to be registered in the United Kingdom by virtue of a diploma granted otherwise than by a University or Institution in the United Kingdom, Australia, New Zealand or the Republic of Ireland shall not be entitled as of right to be registered in the register, but the Senior Medical Officer, if he thinks fit, may require that the holder of any such diploma, before being conditionally registered, shall attend a course in medicine and surgery and pass examinations therein.

5 Person conditionally registered deemed to be registered medical practitioner only while a member of staff of hospital, etc.

A person who is for the time being conditionally registered as a medical practitioner under section 4 shall be deemed to be a medical practitioner registered in Part II of the register while he is a member of the staff of an institution or hospital which on the recommendation of the Senior Medical Officer has been approved by the Minister by notice but shall not otherwise be deemed to be such registered medical practitioner.

6 Cancellation of conditional registration

- (1) The Senior Medical Officer may cancel the conditional registration of any person he considers not a fit person to be conditionally registered by reason of any fact to which section 17 applies.

- (2) The Senior Medical Officer shall cancel the conditional registration of any person upon the registration of that person as a medical practitioner or medical officer as hereinafter provided.

7 Qualification for registration as medical practitioner

Subject to section 17, every person shall be entitled to be registered as a medical practitioner in Part II of the register who satisfies the Senior Medical Officer —

- (a) that he has been conditionally registered in Part I of the register under this Act and thereafter has had satisfactory experience of the practice of surgery and medicine for a period of 1 year in an institution or hospital approved by the Minister under section 5; or
- (b) that he is eligible to be conditionally registered in Part I of the register under this Act and has had satisfactory experience of the practice of surgery and medicine outside Tuvalu for a period of 1 year, in an institution or hospital which in the opinion of the Senior Medical Officer is at least of equal standard to any institution or hospital approved by the Minister under section 5; or
- (c) that he is eligible to be conditionally registered in Part I of the register under this Act and has practised medicine and surgery for a continuous period of 5 years since the date on which he obtained his degree, diploma or other qualifications.

8 Registration of dental practitioner

Subject to section 17, any person shall be entitled to be registered as a dental practitioner in Part III of the register who satisfies the Senior Medical Officer that he holds a degree or diploma or other qualifications in dentistry which would enable him to be registered in the register kept by the General Dental Council of the United Kingdom established under the Imperial Act entitled the Dentists Act 1956.

9 Conditional registration of medical officer

Subject to section 17, any person who satisfies the Senior Medical Officer that he holds a diploma in medicine and surgery granted by the Fiji School of Medicine and that he is in the employment of the Government or in other employment, not in the public service, approved by the Minister, shall be entitled to be conditionally registered as a medical officer in Part IV of the register.

10 Person conditionally registered deemed to be registered medical officer only while a member of staff of hospital, etc.

A person who is for the time being conditionally registered under section 9 shall be deemed to be a medical officer registered in Part V of the register while he is a

member of the staff of an institution or hospital approved by the Minister under section 5, but shall not otherwise be deemed to be a medical officer so registered.

11 Qualification for registration as medical officer

Subject to section 17, any person shall be entitled to be registered as a medical officer in Part V of the register who satisfies the Senior Medical Officer that he has been conditionally registered in Part IV of the register under this Act and thereafter has had satisfactory experience of the practice of surgery and medicine for a period of 1 year in an institution or hospital approved by the Minister under section 5:

Provided that any person who at the date of commencement of this Act is qualified to be conditionally registered under section 9, and who has before that date already had satisfactory experience of the practice of surgery and medicine for a period of 1 year in such an approved institution or hospital, may be registered as a medical officer in Part V of the register, without first being conditionally registered under section 9.

12 Registration of dental officer

Subject to section 17, any person who satisfies the Senior Medical Officer that he holds a diploma in dental surgery granted by the Fiji School of Medicine and that he is in service under the Government shall be entitled to be registered as a dental officer in Part VI of the register.

13 Application for registration

Every person who is entitled to be conditionally registered or registered under this Act may make application in writing to the Senior Medical Officer to be so registered and shall at the same time produce the document or documents confirming or evidencing the qualification or each of the qualifications in respect of which he seeks to be registered, and shall give notice of his application in such manner, if any, as may for the time being be prescribed.

14 Applications to be considered by Senior Medical Officer

- (1) As soon as may be practicable after any such application has been submitted to him, the Senior Medical Officer shall consider the application and shall give such directions in respect thereof as he thinks fit and as he is by this Act authorised.
- (2) The Senior Medical Officer may if he thinks fit require any person to verify by statutory declaration any statement made by him with respect to any application before him or with respect to any objection to such application.

15 Decision of Senior Medical Officer

- (1) If the Senior Medical Officer after considering any application as aforesaid is of the opinion that the applicant is entitled to be registered in the manner specified in the application he shall thereupon register the applicant in that manner and shall notify him accordingly.
- (2) If the Senior Medical Officer after considering any such application as aforesaid is of the opinion that the applicant is not entitled to be registered in the manner specified in the application he shall thereupon refuse to register the applicant in that manner and shall notify him accordingly.

16 Temporary practising certificate

- (1) Notwithstanding anything to the contrary in this Act the Senior Medical Officer may issue to a person who has applied for registration under this Act a temporary certificate of permission to practise which shall entitle that person, pending the consideration of his application, to practise medicine, surgery or dentistry to the extent he would be entitled if he had been registered in the manner specified in his application.
- (2) Every such certificate shall remain in force until cancelled by the Senior Medical Officer:

Provided that no such certificate shall in any case remain in force for a longer period than 6 months from the date of its issue.
- (3) The holder of any such certificate shall, while the certificate remains in force, be deemed for all purposes to be registered in that Part of the register indicated on the certificate.
- (4) The Senior Medical Officer may at any time cancel any temporary certificate granted under this section and the certificate shall thereupon lapse.

17 Restriction on registration

No person shall be entitled as of right to be registered under this Act if he is not a fit person to be so registered by reason of the fact that —

- (a) he has at any time in any place been convicted of an offence there punishable by imprisonment for a term of 2 years or upwards; or
- (b) he is otherwise not of good fame and character.

18 Certificate of registration

The Senior Medical Officer shall on application in that behalf being made to him at any time by a person registered in accordance with this Act and on payment of the prescribed fee, if any, issue to that person a certificate of registration in the prescribed form, if any.

19 Erasure of name of person ceasing to practise, etc.

- (1) The Senior Medical Officer may at any time send to any person whose name appears in the register, by registered letter addressed to him at his address as it appears in the register, an inquiry as to whether he desires to have his name retained in the register or has ceased to practise.
- (2) If no reply to such letter is received within 6 months from the date of posting thereof, or if the letter is not delivered and is returned to him, the Senior Medical Officer may remove from the register the name of the person to whom the letter was sent.
- (3) If the Senior Medical Officer is satisfied that any person whose name appears in the register has died or has permanently left Tuvalu, he may erase the name of that person from the register.
- (4) Any person whose name has been removed from the register in pursuance of this section of this Act may apply to the Senior Medical Officer to have his name restored to the register and if the Senior Medical Officer is satisfied that his name has been removed in error he shall restore the name of that person to the register.

20 Amendment of register where person wrongfully registered or where particulars incorrect

- (1) If any person's name has been entered in the register by reason of any false or fraudulent representation or declaration, made either orally or in writing, the Senior Medical Officer shall cause the name of that person to be erased from the register.
- (2) If the qualifications or any other particulars appearing in the register in respect of any person are proved to the satisfaction of the Senior Medical Officer to be or are to his knowledge false or erroneous in any respect he shall erase those particulars from the register or otherwise amend the register accordingly.
- (3) The provisions of subsection (2) shall apply notwithstanding the fact that at the time when the entry in the register was made the person was actually possessed of the qualifications particulars whereof appear in the register or at that time the entry was correct.

21 Additional degrees, diplomas, etc., may be entered in register

Any person registered in either Part I, Part II or Part III of the register who obtains any medical, surgical or dental degree, diploma or other qualifications other than that by virtue of which he was registered may apply to the Senior Medical Officer to amend the register so far as it relates to the qualifications of that person; and on any such application the Senior Medical Officer shall, if satisfied that the applicant is entitled to the degree, diploma or other qualification in respect of which the

application is made and that the degree, diploma or other qualification in respect of which the application is made is of sufficient standing to warrant its being entered in the register, thereupon insert in the register particulars as to that degree, diploma or other qualification.

22 Removal of name after removal from other registers

If the Senior Medical Officer is satisfied that the name of any person who has been registered in Part I, Part II or Part III of the register has since been erased from any register of medical or dental practitioners in the United Kingdom or elsewhere in the Commonwealth, or in the Republic of Ireland, or in any country in which the person was granted the degree, diploma or other qualification by virtue of which he was registered, he may, if he thinks fit, erase that person's name from the register.

23 Restriction on accepting payment of fees, etc.

No person registered in Part IV, Part V or Part VI of the register shall be entitled to or shall accept any fee, remuneration or reward in respect of any services performed by him relating to the practise of medicine, surgery or dentistry other than his emoluments either as an officer in service under the Government or in respect of any other employment, not in the public service, which is approved by the Minister:

Provided that this section shall not apply in respect of services performed by any person registered in Part V of the register under a licence granted to that person by the Senior Medical Officer under section 24 and in compliance with the conditions, if any, written on the licence under section 24 (2).

24 Licences for persons registered in Part V to practise medicine etc.

- (1) The Senior Medical Officer may grant a licence in such form as may be prescribed to any person registered in Part V of the register to practise medicine or surgery for gain otherwise than in the course of employment by the Government or other employment approved by the Minister under this Act.
- (2) A licence granted under this section may be granted subject to such conditions as the Senior Medical Officer shall determine which shall be written on the licence.
- (3) The Senior Medical Officer may by notice served by hand or by post on the licensee revoke a licence granted under this section where he is satisfied that the licensee has wilfully and without reasonable excuse contravened any condition written on his licence under subsection (2) or is otherwise not a fit person to continue to have such a licence.

- (4) Any person whose licence has been revoked under subsection (3) may appeal against the revocation in writing addressed to the Minister within 3 weeks after notice of the revocation has been served on him.
- (5) The Minister shall consider and determine every appeal under subsection (4) without unreasonable delay and his decision thereon shall be final.

25 Erasure of name of person contravening section 23

If the Senior Medical Officer is satisfied that any person registered in Part IV, Part V or Part VI of the register has received any fee, remuneration or reward in contravention of section 23, he may cause the name of such person to be erased from the register.

26 Power to erase names from register

- (1) If any person who is registered in any Part of the register is convicted of an offence punishable by imprisonment for a term of 2 years or upwards or is after due inquiry judged by the Senior Medical Officer to have been guilty of infamous conduct in any professional respect the Senior Medical Officer may, if he sees fit, order that the name of any such person be erased from the register.
- (2) In directing that a person's name shall be erased from the register the Senior Medical Officer may, if he sees fit, specify a period on the expiration of which such person may again apply to be registered under the provisions of this Act.
- (3) An order made by the Senior Medical Officer under this section shall not take effect in any case until the expiration of 21 days after the date of the order and, if within that period the person affected gives due notice of intention to appeal against the order, shall not take effect until and unless it is confirmed by the High Court or the appeal is for any reason dismissed by the High Court.

27 Right of appeal to High Court

Any person whose application for registration is refused under section 15 or whose conditional registration is cancelled under section 6(1) or whose name has been erased from the register under sections 20, 22, 25 or 26 may within 21 days of the date of notification to him of such refusal, cancellation or erasure appeal to the High Court and on any such appeal the High Court may make such order as it thinks proper having regard to the merits of the case and the public welfare.

28 Application for re-registration

- (1) Where a person's application for registration under section 15 has been refused or a person's conditional registration has been cancelled under section 6(1) or a person's name has been erased from the register under sections 20, 22, 25 or 26 the Senior Medical Officer may, subject to any order made under subsection (2) of section 26 or any order made by the High Court on an appeal under section 27, refuse to consider any further application for registration by such person for such time as he thinks fit.
- (2) Any person aggrieved by a refusal of the Senior Medical Officer to consider an application may appeal to the High Court for an order directing the Senior Medical Officer to consider the application and thereupon the High Court may make such order on the matter as it thinks fit.

29 Power to remove names from Parts IV, V and VI of register

If any person who is registered either in Part IV, Part V or Part VI of the register ceases to be employed in service under the Government or in other employment approved under sections 9 or 23, whether by reason of death, dismissal, resignation or retirement, the Senior Medical Officer shall thereupon erase the name of the person from the register:

Provided that this section shall not apply in the case of the dismissal, resignation or retirement of a person registered in Part V of the register if he has a licence granted under section 24 or is then granted such a licence but in the case of the subsequent revocation of the licence the Senior Medical Officer shall thereupon erase his name from the register unless on the day on which the revocation takes effect such person is again employed in service under the Government or in other employment approved under sections 9 and 23.

30 Re-registration

Any person whose name has been erased from the register in accordance with section 29 may on being re-employed in service under the Government, or in other employment approved under sections 9 or 23, apply to be registered again under this Act.

31 Removal of names of practitioners becoming certified mental patients

- (1) If any person who is registered under this Act becomes a certified mental patient he shall thereupon be deemed to have ceased to be so registered.
- (2) For the purposes of this section a certified mental patient means —
 - (a) a person apprehended or admitted to a mental hospital in pursuance of sections 8, 10, 12, 13, 15 or 16 of the Mental Treatment Act,² or

- (b) a person confined in a mental hospital, prison or other suitable place of custody under section 14 of the Mental Treatment Act.
- (3) Any person who has ceased to be registered under this Act by virtue of the foregoing provisions of this section shall not again be registered unless he satisfies the Senior Medical Officer that his mental condition warrants such registration.

32 Publication of persons registered

The Senior Medical Officer shall, as at the 30th day of June in each year, prepare a copy of the register of persons who are registered in Part I, Part II and Part III of the register and of persons registered in Part V of the register who have licences granted under section 24, and shall certify it to be a true copy and shall cause it to be published in the Gazette as soon as practicable after the 30th day of June in the year to which it relates.

33 Unregistered persons may not practise and persons may not profess qualifications which they do not hold

- (1) Every person commits an offence and shall be liable to a fine of \$400 and to imprisonment for 6 months —
 - (i) who not being registered or deemed to be registered as a medical practitioner in Part II of the register or not being registered as a medical officer in Part V of the register and having a licence under section 24 practises, professes to practise or publishes his name as practising medicine or surgery or any branch of medicine or surgery; or
 - (ii) who wilfully and falsely takes or uses the name or style of a physician, surgeon, doctor, licentiate in medicine or surgery, bachelor of medicine or medical practitioner or any name, title, addition or description implying that he holds any diploma or degree in medicine or surgery or in any branch of medicine or surgery or is otherwise specially qualified to practise medicine or surgery or any branch of medicine or surgery.
- (2) Every person commits an offence and shall be liable to a fine of \$200 and to imprisonment for 3 months —
 - (i) who not being registered as a dental practitioner in Part III of the register practises, professes to practise or publishes his name as practising dentistry or any branch of dentistry; or
 - (ii) who wilfully and falsely takes or uses the name or the style of a dentist, dental surgeon, licentiate in dentistry, doctor or bachelor of dentistry or dental practitioner or any name, title, addition or description implying that he holds any diploma or degree in

dentistry or in any branch of dentistry or is otherwise specially qualified to practise dentistry or any branch of dentistry:

Provided that a medical practitioner or a medical officer not registered as a dental practitioner may provide dental treatment in any case in which in his opinion such treatment is urgent or when a dental practitioner registered in Part III of the register is not conveniently available.

- (3) No medical officer or dental officer shall be guilty of an offence under this section by reason only of the performance of any act in the course of the practise of his respective profession in accordance with the provisions of this Act.

34 Unregistered persons not to sue for fees

- (1) No person shall be entitled to recover any charge in any court of law in Tuvalu for any medical or surgical advice or attendance, or for the performance of any operation, or for any medicine which he has both prescribed and supplied, unless he was registered or deemed to be registered as a medical practitioner in Part II of the register or was registered as a medical officer in Part V of the register and had a licence granted under section 24 at the time when the charge in respect of which the action is brought was incurred:

Provided that the exception from the general provision of this subsection of any person who was registered in Part V of the register and had a licence granted under section 24 shall not apply where the charge in question was for anything done by such a person in wilful contravention of any condition written on his licence under section 24(2).

- (2) No person shall be entitled to recover any charge in any court of law in Tuvalu for any dental advice or attendance or for the performance of any dental operation unless he was registered in Part III of the register at the time when the charge in respect of which the action is brought was incurred.

35 Regulations

The Minister may make regulations —

- (a) regulating the private practice of medicine, surgery, dentistry and any branch thereof and in particular the fees that may be charged in connexion therewith;
- (b) prescribing anything which may be prescribed;
- (c) generally for the better carrying into effect of the provisions, objects and intentions of this Act.

36 Exemptions from provisions of Act

Nothing in this Act shall —

- (a) apply to, or to any acts of, any physician, surgeon, dentist or other medical or dental officer serving in any of the armed forces of Her Majesty or of a friendly power; or
- (b) affect the lawful trade, business or occupation of any person for the time being registered as a pharmacist in the register kept under the Pharmacy and Poisons Act;³
- (c) affect the lawful trade, business or occupation of any dental nurse, dental hygienist, general nurse, physiotherapist or midwife serving in any of Her Majesty's armed forces or in the employment of the Government or of some institution or hospital approved by the Minister under section 5; or
- (d) affect the lawful trade, business or occupation of any person who has practised continuously as a midwife in Tuvalu for not less than 5 years at the 16th day of March 1964.

ENDNOTES

¹ 1990 Revised Edition, Cap. 30 – Acts 3 of 1964, 8 of 1971 (Cap. 30 of 1973), 10 of 1975, T.L.N. 13/75, L.N.27/64

² Cap. 28.16

³ Cap. 28.32