



SAMOA

HEALTHCARE PROFESSIONS REGISTRATION AND STANDARDS ACT 2007

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**HEALTHCARE PROFESSIONS REGISTRATION AND
STANDARDS ACT 2007**

2007

No. 7

AN ACT to provide for aspects of the professional administration of all branches of the healthcare professions in Samoa, for the keeping of registers of healthcare professionals and for the enforcement of professional standards and requirements, and for related matters.

[Assent date: 2 February 2007]

[Commencement date: 16 March 2007]

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

**PART 1
PRELIMINARY**

1. Short title and commencement – (1) This Act may be cited as the Healthcare Professions Registration and Standards Act 2007.

(2) This Act commences on a date nominated by the Minister.

(3) Notice of commencement of this Act shall be published in Samoan and English in the *Savali* and 1 other newspaper circulating in Samoa.

2. Interpretation – (1) In this Act, unless the context otherwise requires:

“Chief Executive Officer” means the Chief Executive Officer of the Ministry of Health;

“Council” includes each of the Councils established under this Act and any of the Professional Acts to perform functions related to the registration and discipline of healthcare professionals;

“healthcare professional” means any person registered or entitled to be registered under this Act or any of the Professional Acts as any of the following:

- (a) medical practitioner;
- (b) dental practitioner;
- (c) nurse or midwife;
- (d) pharmacist;
- (e) any allied healthcare professional regulated by any of the Professional Acts;
- (f) *Repealed by section 41 of the Healthcare Professions Registration and Standards Act 2007, No.24;*

“Minister” means the Minister of Health;

“Ministry” means the Ministry of Health;

“Professional Acts” means the laws relating to the healthcare professions listed in the Schedule;

“professional standard” means any professional standard approved to be a professional standard under Part 3, or deemed by section 8 to be a professional standard, and includes standards of professional conduct, requirements and supervision arrangements;

“register” means any of the registers of healthcare professionals kept by the Registrar in accordance with this Act;

“registered person” means any healthcare professional registered under this Act or any of the Professional Acts;

“Registrar” means the Registrar of Healthcare Professionals appointed under section 4.

(2) Where an office referred to in this Act later ceases to exist, the Chief Executive Officer may determine the appropriate office most approximating the office referred to, and that office is taken to be substituted for the office ceasing to exist.

3. Act binds the State – This Act binds the State.

PART 2

REGISTRAR OF HEALTHCARE PROFESSIONALS

4. Appointment of the Registrar – (1) There shall be a Registrar of Healthcare Professionals who shall be either:

- (a) an officer of the Ministry appointed by the Chief Executive Officer; or

- (b) if a healthcare regulatory authority is established under any law or under Regulations made under this Act, a duly appointed officer of that authority.
- (2) During any period of absence or illness of the Registrar appointed under subsection (1)(a), the Chief Executive Officer shall appoint an officer of the Ministry to act as Registrar of Healthcare Professionals.
- (3) An appointment made under subsection (1)(a) shall be:
 - (a) made in writing;
 - (b) published in Samoan and English in the *Savali* and one other newspaper circulating in Samoa; and
 - (c) notified to the Secretary of each Council established by each Professional Act.
- (4) The validity of any appointment made under subsection (1)(a) is not affected by a failure of the Chief Executive Officer to comply with the requirements of subsection (3)(b) or (c).

5. Functions of the Registrar – The Registrar shall carry out the following functions:

- (a) liaise with the Councils in relation to the implementation of the provisions of this Act and provide advice and assistance to the Councils;
- (b) maintain the registers of healthcare professionals required by this Act and each of the Professional Acts;
- (c) give effect to each lawful direction made by a Council in relation to entries into and amendments of the registers;
- (d) implement effective processes for certifying the status of healthcare professionals as recorded in the registers;
- (e) provide advice to the Councils on the procedures and requirements of this Act applying to the registration and discipline of healthcare professionals;
- (f) maintain accessible records of the determinations made by the Councils in relation to the professional standards to be observed by registered persons;
- (g) assist the Councils to monitor and enforce the professional standards applying to registered persons;

- (h) receive complaints concerning the conduct of registered persons and refer these to the relevant Council to be dealt with in accordance with the provisions of this Act;
- (i) assist the Councils to implement the requirements of this Act in relation to disciplinary action against registered persons;
- (j) report to the Minister and Chief Executive Officer, and to the healthcare regulatory authority if it is established by law or under the regulations, in relation to the operation of this Act and the Professional Acts.

6. Powers of the Registrar – The Registrar may exercise any power necessary for or incidental to the performance of the functions stated in section 5, and may:

- (a) determine the most effective means of maintaining the registers required by this Act or any of the Professional Acts;
- (b) make entries, additions to and deletions from the registers to reflect the lawful decisions made by the Councils;
- (c) permit the registers to be inspected at times and places determined by the Registrar and subject to the rights of Councils to access the registers under section 10(c), upon the payment of the prescribed fee;
- (d) provide certificates in relation to the status of healthcare professionals in the relevant register upon payment of the prescribed fee;
- (e) publish the determinations made by the Councils concerning the professional standards to be observed by healthcare professionals by any appropriate means;
- (f) undertake investigations into breaches of this Act, any of the Professional Acts and any professional standards applying to healthcare professionals at the request of a Council;
- (g) report to the relevant Council on the outcomes of any investigations into alleged breaches of professional standards by healthcare professionals;

- (h) provide assistance to the Councils when disciplinary proceedings are being taken against a healthcare professional;
- (i) publish the outcomes of disciplinary action against healthcare professionals by any appropriate means; and
- (j) prepare and publish reports in consultation with the Councils in relation to any aspect of the regulation of the healthcare professions in Samoa.

PART 3 PROFESSIONAL STANDARDS

7. Councils to determine professional standards – (1)

The professional standards determined and applied under this Part shall relate to all aspects of proper professional conduct by healthcare professionals, including matters relevant to the following:

- (a) the observance of Codes of Conduct and standards of professional practice relevant to the duties and activities of the relevant profession;
- (b) the observance of legal requirements applying to healthcare professionals and the implementation of processes prescribed by any applicable Professional Act and other relevant laws;
- (c) the legal and human rights of patients and users of health services and pharmaceuticals;
- (d) issues concerning charges made for the provision of professional services and the accounting to Government for the use of any Government and services for which a charge is made to a patient or customer.

(2) The Council shall:

- (a) determine the professional standards to be observed by the respective healthcare professionals;
- (b) ensure that the approved professional standards—
 - (i) are consistent with the proper and effective administration and operation of the National Health Service, hospitals and other health services and the provision of health services to the public;
 - (ii) reflect matters of Government policy and administrative practice relating to the

- provision of health services as advised by the Ministry;
- (iii) ensure that the health services provided to all persons in Samoa are in accordance with accepted international standards and are consistent with the human rights applying to all persons in Samoa; and
- (iv) take account of the determinations and procedures on ethical matters of any relevant association of healthcare professionals;
- (c) review the approved professional standards and make necessary amendments to them—
 - (i) at least once a year; and
 - (ii) when a specific request to do so is made by the Chief Executive Officer;
- (d) liaise with the Registrar when professional standards are being determined or changed to ensure that the requirements of paragraph (b) are met;
- (e) send the approved professional standards, or the changes to them to the Registrar; and
- (f) take appropriate action to monitor and enforce the standards in accordance with the requirements of this Act.

(3) A Council may adopt the professional standards applying to healthcare professionals in any other country as the professional standards to be observed by the relevant healthcare professionals in Samoa.

(4) A Council may establish a committee to deal with matters relevant to professional standards and may delegate to that committee any of its functions, powers and responsibilities concerning professional standards.

8. Other matters deemed to be professional standards –

(1) In addition to the professional standards determined under section 7, a healthcare professional is regarded as being in breach of professional standards if the Healthcare professional:

- (a) commits any act or omission in the course of the healthcare professional's work which negligently, carelessly, unreasonably, unethically or recklessly places the life or health of any person at risk; or

- (b) commits any criminal offence which is in any way associated with the work or duties of the health care professional; or
 - (c) breaches or fails to observe a requirement imposed or a direction given by a person empowered by law or contract to impose requirements or give directions to the healthcare professional.
- (2) The charging of a healthcare professional for the breach of any criminal offence, or the conviction of that healthcare professional, does not affect the taking of disciplinary action against the healthcare professional for the breach of a professional standard arising from the same facts and circumstances as the criminal proceedings.

PART 4 REGISTRATION PROCEDURES

9. Role of the Councils – (1) The Councils shall perform the functions and duties relevant to the registration of the healthcare professionals under the responsibility of the respective Councils in accordance with the provisions of the relevant Professional Act.

(2) The Secretary of each Council shall liaise with the Registrar concerning all matters relevant to the registration of the healthcare professionals under the responsibility of the respective Council, and shall do all things necessary to ensure that the registers of healthcare professionals are kept current.

10. Registers of Healthcare Professionals – The Registrar shall, after consultation with the Councils, determine:

- (a) the number and nature of registers to be established and maintained for the purposes of this Act so as to reflect the categories of healthcare professionals registered under this Act and the Professional Acts;
- (b) the information to be included in the respective registers which may include—
 - (i) the class of registration;
 - (ii) any conditions applying to the registered person;
 - (iii) relevant qualifications;
 - (iv) courses undertaken and grades achieved in relation to any formal qualification required for registration;

- (v) any disciplinary action taken against the registered person and the penalties imposed; and
- (vi) any other information relevant to the status of registered persons; and
- (c) the right of access to the information contained in the registers and the provision of duplicate registers or access to the registers by the Councils.

11. Registers to reflect decisions of the Councils – (1) The registers of healthcare professionals maintained by the Registrar under this Part shall accurately reflect the decisions made by the respective Councils.

(2) Subject to section 12, no amendment may be made to a register of healthcare professionals without the written approval of the relevant Council, except in pursuance of a court order relating to the registration of a particular healthcare professional.

12. Alterations to the registers – (1) The Registrar may alter the details of registered persons in a register:

- (a) to reflect changes to names and addresses as notified by the registered person, including the noting of any matai title if requested by a registered person;
- (b) to note additional relevant qualifications if approved by the relevant Council;
- (c) to remove the name of a registered person at the request of that person;
- (d) to remove the name of a registered person as a result of disciplinary action against that person if notified by the relevant Council;
- (e) to remove the name of a registered person who has breached subsection (3);
- (f) to record any disciplinary findings and any penalty imposed on a registered person as notified by the relevant Council;
- (g) to comply with any other lawful direction given by a Council in relation to the details maintained on the respective register; or
- (h) to note the re-registration of a healthcare professional if approved by a Council.

(2) A registered person shall notify the Secretary of the relevant Council and the Registrar of any change of name and address within 3 months of the change occurring, and any person who fails to do so commits an offence and is liable upon conviction to a fine not exceeding 1 penalty unit:

PROVIDED THAT it is not compulsory for notification to be given of any matai title taken by a registered person.

(3) A person who obtains registration by fraud or who gives any false information in relation to an application for registration under this Act or a Professional Act commits an offence and is liable upon conviction to imprisonment for a term not exceeding 7 years or to a fine not exceeding 100 penalty units, or both.

13. Certification by the Registrar – (1) For all purposes, a certificate under the hand of the Registrar to the effect that:

- (a) a person is registered under this Act and a Professional Act;
- (b) a person is not registered under this Act and a Professional Act;
- (c) conditions apply to a registered person;
- (d) a registered person has obtained stated qualifications or grades in any course or examination noted in a register;
- (e) a person holds a current practicing certificate under a Professional Act;
- (f) there is any specific entry in a register in relation to a registered person; or
- (g) there has been a proceeding or decision of a Council relating to a registered person, –

is, until the contrary is proven, sufficient evidence of the matters so certified.

(2) The Chief Executive Officer may approve procedures ensuring the security and integrity of the registration and certification processes which involve the giving of certifications by the means of electronic transmission, and for this purpose the approved means are taken to be certification signed by the Registrar for the purposes of subsection (1).

PART 5 DISCIPLINARY PROCEDURES

14. Complaints against healthcare professionals – (1) Disciplinary action against healthcare professionals to be taken in accordance with this Part may be commenced on the basis of

a complaint made to the Registrar or to the Secretary of the relevant Council by:

- (a) a patient of the healthcare professional, or a customer or user of health services provided by the healthcare professional;
- (b) the guardian or a relative of a patient;
- (c) another healthcare professional;
- (d) a Council;
- (e) the Chief Executive Officer;
- (f) the General Manager of the National Health Service; or
- (g) the person in charge of any hospital or place at which health services are provided.

(2) Disciplinary action may also be commenced at the instigation of the Registrar or the Secretary of the relevant Council.

(3) All complaints made under this section are to be referred to the Registrar.

(4) The Registrar may confirm that it is appropriate for a complaint to proceed in accordance with this Part, and for this purpose the Registrar may:

- (a) liaise with the relevant Council Chairperson or Secretary to confirm that the matters complained of relate to a matter of professional standards;
- (b) consult the employer of the healthcare professional to determine if any action has been taken by the employer (if any) in relation to the matter; and
- (c) confirm with the person making the complaint that the matter should continue in accordance with the procedures prescribed by this Part.

(5) The Registrar shall ensure that a written record is prepared of all complaints which are to proceed under this Part, and the written record shall state:

- (a) the name and address of the person making the complaint;
- (b) the name, address and occupation of the healthcare professional against whom the complaint is made;
- (c) the place, date and time of the alleged act or omission forming the basis of the complaint, as nearly as can properly be stated;
- (d) the nature of the act or omission complained of, and the alleged and actual outcome or consequences of the act or omission;

- (e) the registered status of the healthcare professional;
and
 - (f) any other matter that the Registrar considers appropriate.
- (6) The Registrar shall forward the written record prepared for any complaint as soon as practicable to the following:
- (a) the Secretary of the relevant Council;
 - (b) the Chief Executive Officer;
 - (c) the Attorney General;
 - (d) the employer of the healthcare professional, (if any).
- (7) If the Registrar is notified by a person making a complaint that they intend to withdraw the complaint, the Registrar shall notify the relevant Council but the Council may, in its discretion, continue to consider the matters referred to in the complaint.

15. Initial consideration of complaints by the relevant Council – (1) Upon receipt of a written record of the Registrar under section 14(5), the Secretary of the relevant Council shall:

- (a) acknowledge receipt of the written record forwarded under section 14(5); and
 - (b) arrange for the relevant Council to consider the complaint within 30 days of its receipt.
- (2) If the matter is not referred to the relevant Council in accordance with subsection (1)(b) the Registrar may deem the matter to be a serious breach of professional standards and proceed with the matter in accordance with section 18.

16. Determination of minor and serious breaches – (1) At the initial consideration of each complaint referred to a Council, the Council shall determine whether the matter complained of is to be regarded as a minor or a serious breach of professional standards.

- (2) When making a determination under subsection (1), the Council shall consider the following:
- (a) the written record prepared in relation to the complaint by the Registrar;
 - (b) any other material or information provided to the Council in relation to the complaint by any person;
 - (c) the approved professional standards applying to the alleged acts and omissions and the duties of the healthcare professional;

- (d) any opinion expressed by the Chief Executive Officer or the Attorney General;
 - (e) any other relevant matter that the Council thinks fit.
- (3) The Secretary of the relevant Council shall notify the Registrar of the determination made by Council as soon as practicable, who shall then give notification of the determination to the following:
- (a) the person making the complaint;
 - (b) the Chief Executive Officer;
 - (c) the Attorney General;
 - (d) the employer of the healthcare professional (if any).

17. Dealing with minor breaches – (1) Complaints made under this Part which are determined under section 16 to be minor breaches are to be dealt with in the following manner:

- (a) a copy of the written record prepared by the Registrar under section 14(5) is to be given to the healthcare professional against whom the complaint is made;
- (b) the healthcare professional is to be invited to submit a written response to the Secretary of the relevant Council within 14 days;
- (c) the Council or a designated committee of the Council, shall convene a meeting to consider the complaint as soon as practicable;
- (d) the healthcare professional shall be advised of the meeting and shall be invited to attend with or without legal representation;
- (e) if the healthcare professional attends the meeting, the written record prepared by the Registrar under section 14(5) must be read to the healthcare professional and the healthcare professional must be asked to respond to the allegations that are made;
- (f) the healthcare professional is entitled to give evidence and to call upon other persons to give evidence of any relevant matter;
- (g) the Council, or committee of the Council, shall determine whether the healthcare professional is in breach of the healthcare professional's relevant professional standards and may dismiss the matter if it is not satisfied that a breach has occurred or that any breach is of a trivial nature;

- (h) if satisfied that a breach has occurred which justifies a penalty being imposed, the Council, or Committee of the Council, may—
 - (i) reprimand the healthcare professional; or
 - (ii) impose a fine not exceeding 5 penalty units.
- (2) The Registrar shall ensure that all findings of a Council under subsection (1)(g) and (h) and all penalties imposed under subsection (1)(h) are entered on the register.
- (3) The registration of the healthcare professional are suspended until any fine imposed under subsection (1)(h) has been paid to the Registrar.

18. Dealing with serious breaches – (1) Complaints made under this Part which are determined under section 16 to be serious breaches shall be dealt with in the following manner:

- (a) a copy of the written record prepared by the Registrar under section 14(5) shall be given to the healthcare professional against whom the complaint is made;
- (b) the healthcare professional shall be invited to submit a written response to the Secretary of the relevant Council within 14 days;
- (c) the Registrar shall convene a hearing of the Disciplinary Committee comprising—
 - (i) a District Court judge, who shall be Chairperson; and
 - (ii) two members of the relevant Council nominated by the Council;
- (d) the healthcare professional shall be advised of the hearing and shall be invited to attend with or without legal representation;
- (e) if the healthcare professional attends the hearing, the written record prepared by the Registrar under section 14(5) shall be read to the healthcare professional and the healthcare professional shall be asked to respond to the allegations that are made;
- (f) other procedures for the hearing of the matter shall be as are determined by the Chairperson;
- (g) the healthcare professional is entitled to give evidence and to call upon other persons to give evidence of any relevant matter;
- (h) the Disciplinary Committee shall determine whether the healthcare professional is in breach

of any professional standards applying to the healthcare professional and may dismiss the matter if it is not satisfied that a breach has occurred or that any breach is of a trivial nature;

- (i) if satisfied that a breach has occurred which justifies a penalty being imposed the Disciplinary Committee may—
 - (i) reprimand the healthcare professional; or
 - (ii) impose a fine not exceeding 10 penalty units; or
 - (iii) order that the registration of the healthcare professional be suspended for such period as the Committee thinks fit; or
 - (iv) order that the registration of the healthcare professional be revoked.

(2) The Registrar shall ensure that all findings of a Disciplinary Committee under subsection (1)(h) and (i) and all penalties imposed under subsection (1)(i) shall be entered on the register.

(3) The registration of the healthcare professional shall be suspended until any fine imposed under subsection (1)(i) has been paid to the Registrar.

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.

PART 6 APPEALS

19. Rights of appeal – (1) A healthcare professional may appeal to the Supreme Court against a decision of the Disciplinary Committee made under section 18 by:

- (a) giving notice of appeal to the Registrar and to the Registrar of the Supreme Court within 28 days of the decision being made; and
 - (b) paying any fee prescribed in the rules of court.
- (2) A judge of the Supreme Court shall hear the appeal as soon as possible, and may confirm or modify the decision of the Disciplinary Committee, and the decision of the judge is final.
- (3) A party shall bear its own legal costs in relation to any appeal, unless the judge considers that exceptional circumstances justify the making of an award of costs.

20. Review of decisions of Council – (1) Subject to this section, a healthcare professional may seek judicial review of a decision of a Council:

- (a) to refuse an application for registration;
 - (b) to refuse to issue a practising certificate;
 - (c) to refuse any right of private practise or work for the National Health Service;
 - (d) involving a minor disciplinary breach.
- (2) An application for judicial review of a decision under this section shall be made within 28 days of the decision being made and in accordance with the rules of court.
- (3) A party shall bear its own legal costs in relation to any judicial review, unless the judge considers that exceptional circumstances justify the making of an award of costs.

PART 7

(REPEALED BY SECTION 41 OF THE ALLIED HEALTH PROFESSIONS ACT 2014)

21 and 22. Repealed by section 41 of the Allied Health Professions Act 2014, No.24.

**PART 8
MISCELLANEOUS**

23. No action may lie against the Registrar etc. – (1) The Registrar, the Ministry and the Councils are not liable for any loss or damage suffered by any person arising from any act or omission done in relation to the registration and discipline of healthcare professionals under this Act.

(2) The responsibility for establishing a right to be registered as a healthcare professional under this Act or a

Professional Act and for verifying all information provided in support of an application shall lie with the applicant.

24. Regulations – (1) The Head of State, acting on the advice of Cabinet, may make regulations as are necessary or expedient for giving full effect to the provisions of this Act and supporting the procedures provided for in the Professional Acts.

(2) Without limiting subsection (1), regulations may be made for the following:

- (a) establish a healthcare regulatory authority and prescribing powers and functions for the authority which are consistent with this Act and the Professional Acts;
 - (b) ensure the security and integrity of the registers maintained under this Act;
 - (c) prescribe additional functions and powers of the Registrar of Healthcare Professionals consistent with this Act and the Professional Acts;
 - (d) clarify any aspect of the disciplinary procedures required under this Act;
 - (e) prescribe offences and the penalties for those offences, being a term of imprisonment not exceeding 1 year and a fine not exceeding 100 penalty units, or both;
 - (f) prescribe fees and charges for the purposes of this Act.
- (2A) The amount of a fee prescribed under subsection (2)(f):
- (a) shall be proposed by the Ministry in consultation with the relevant Council; and
 - (b) is subject to the consideration and approval of the National Revenue Board under the Public Finance Management Act 2001.

(3) The Chief Executive Officer shall ensure that each of the Councils are consulted in relation to any proposed Regulations.

SCHEDULE **(Section 2)**

PROFESSIONAL ACTS

1. Medical Practitioners Act 2007
2. Dental Practitioners Act 2007
3. Nursing and Midwifery Act 2007
4. Pharmacy Act 2007

5. Allied Health Professions Act 2014.

REVISION NOTES 2008 – 2018

This is the official version of this Act as at 31 December 2018.

This Act has been revised by the Legislative Drafting Division from 2008 – 2018 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (b) Insertion of the commencement date
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General.
 - (i) Present tense drafting style:
 - o “shall be” and “has been” changed to “is/are”
 - o “it shall be the responsibility” changed to “shall”
 - o “from time to time” (or “at any time” or “at all times”) removed
 - (ii) Removal/replacement of obsolete and archaic terms with plain language: “pursuant to” or “in accordance with the provisions of” changed to “under”
 - (iii) Removal of superfluous terms: “the generality of”
 - (iv) Removal of “and” from “and/or”
 - (v) “each”, “any” and “Every” changed to “a” or “an” where appropriate
 - (vi) Empowering provision for the Schedule inserted
 - (vii) Substitute roman numerals with decimal numbers in Part headings.

The following amendments were made to this Act since the publication of the *Consolidated and Revised Statutes of Samoa 2007*:

By the *Allied Health Professions Act 2014*:

- Section 2** Paragraph (f) for the definition of “healthcare professional” was repealed.
- Section 18A** New section 18A was inserted.
- Heading of Part VII** Repealed by section 41 of the Allied Health Professions Act 2014, No.24.
- Section 21** Repealed by section 41 of the Allied Health Professions Act 2014, No. 24.
- Section 22** Repealed by section 41 of the Allied Health Professions Act 2014, No. 24.

Schedule “Allied Health Professions Act 2014” was inserted after “Pharmacy Act 2007” in the schedule.

By the *Fees and Charges (Miscellaneous Amendments) Act 2017 No. 13*:

- Section 6(c) and (d)** - replaced “any fee fixed by the Chief Executive Officer” with “the prescribed fee”;
- Section 24(2)** - new paragraph (f) inserted, and new subsection (2A) inserted.



Lemalu Hermann P. Retzlaff
Attorney General of Samoa

*This Act is administered by
the Ministry of Health.*
