



Tonga

MEDICAL AND DENTAL PRACTICE ACT

Chapter 28.18

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MEDICAL AND DENTAL PRACTICE ACT

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MEDICAL AND DENTAL PRACTICE ACT

AN ACT TO REQUIRE THE REGISTRATION BEFORE PRACTICE OF MEDICAL PRACTITIONERS, HEALTH OFFICERS, DENTISTS AND DENTAL THERAPISTS, TO ESTABLISH THE MEDICAL AND DENTAL PRACTICE BOARD, TO PROVIDE FOR MEDICAL AND DENTAL PRACTICE STANDARDS, THE MAKING OF COMPLAINTS, THE CONDUCT OF DISCIPLINARY PROCEEDINGS AND FOR ANCILLARY PURPOSES¹

Commencement [1st January, 2004]

PART I - PRELIMINARY

1 Short title and commencement

This Act may be cited as the Medical and Dental Practice Act, and shall come into force on a date to be proclaimed by His Majesty in Council.

2 Interpretation

In this Act, unless the context otherwise requires —

“**advertisement**” means an advertisement —

- (a) published in a newspaper, magazine or other publication;
- (b) placed in a circular, hand bill, poster or other notice;
- (c) made orally or by any means of producing light or sound;
- (d) made using a form of electronic communication or utilizing an application of information technology, including an advertisement placed on the internet; or

(e) made in any other manner;

“**Board**” means the Medical and Dental Practice Board established under section 3(1);

“**conduct**” means any act or omission;

“**Council**” means the Health Practitioners Review Council established under the Health Practitioners Review Act;²

“**dental therapist**” means a person who is duly registered as such under this Act;

“**dentist**” means a person who is duly registered as such under this Act;

“**drug**” includes any product defined as a medicinal drug in the Therapeutic Goods Act;

“**health officer**” means a person who is duly registered as such under this Act;

“**medical practitioner**” means a person who is duly registered as such under this Act;

“**medicinal drug**” is as defined in the Therapeutic Goods Act;

“**midwife**” means a person who is duly registered as such under the Nurses Act;

“**Minister**” means the Minister of Health;

“**narcotic drugs and psychotropic substances**” are as defined in the Therapeutic Goods Act;

“**nurse**” means a person who is duly registered as such under the Nurses Act;

“**prescription**” means the written order of a dentist, dental officer, health officer or medical practitioner for the supply of a drug or poison to any person or of a veterinary practitioner for the supply of a drug or poison to any animal which complies with the requirements of Part VI of the Therapeutic Goods Act;

“**professional misconduct**”, in relation to a medical practitioner, health officer, dentist or dental therapist includes —

- (a) any conduct that demonstrates a lack of adequate —
 - (i) knowledge;
 - (ii) skill;
 - (iii) judgment; or
 - (iv) care;
- (b) by the medical practitioner, health officer, dentist or dental therapist in the practice of medicine or dentistry, as the case may be, whether by act or omission —

- (i) contravening a provision of this Act or the regulations;
 - (ii) contravening a registration condition imposed by the Board;
 - (iii) contravening an order made or a direction given by the Board;
 - (iv) being an habitual drunkard or being addicted to any deleterious drug; and
- (c) any other improper or unethical conduct relating to the practice of medicine or dentistry;

“**register**” means the register of medical practitioners, the register of health officers, the register of dentists or the register of dental therapists maintained by the Board in pursuance of Part III of this Act;

“**Registrar**” means the person designated under section 3(9) of this Act.

PART II - THE MEDICAL AND DENTAL PRACTICE BOARD

3 Medical and Dental Practice Board

- (1) There shall be established for the purposes of this Act a Board to be called the Medical and Dental Practice Board.
- (2) The functions of the Board shall be —
 - (a) to register medical practitioners, health officers, dentists and dental therapists;
 - (b) to deal with matters relating to disciplinary inquiries and the cancellation, suspension, withdrawal and restoration of registration of medical practitioners, health officers, dentists and dental therapists;
 - (c) to set standards for the education and training of medical practitioners, health officers, dentists and dental therapists;
 - (d) to ensure maintenance of the required standards of practice and conduct among medical practitioners, health officers, dentists and dental therapists and to promote the development of guidelines and codes of conduct;
 - (e) to advise the Minister on any matter relating to medical practitioners, health officers, dentists and dental therapists;³ and
 - (f) to review the implementation of the Act, the regulations, guidelines and codes of conduct and to propose any changes or modifications, as may be deemed necessary.
- (3) The Board shall consist of the following members —
 - (a) the Medical Superintendent of Vaiola Hospital;
 - (b) the Chief Dental Officer of the Ministry of Health;
 - (c) the President, or nominee, of the Tonga Medical Association;

- (d) the Training Coordinator of the Tonga Health Training Centre of the Ministry of Health;
 - (e) a medical practitioner in private practice nominated by the Minister; and
 - (f) the Registrar.
- (4) When holding an inquiry under Part IV, the Board shall co-opt a senior law practitioner to sit on the Board for the purpose of hearing the inquiry.
 - (5) The member nominated by the Minister under subsection (3)(e) shall hold office for a period of two years and shall be eligible for re-nomination.
 - (6) The nomination of any member may be cancelled by the person that nominated such person, and another person may be nominated in place of such member for the remaining period of office.
 - (7) Any nominated member may resign by giving notice of such resignation to the person that made the nomination, and the President of the Tonga Medical Association or the Minister, as appropriate, may nominate another person for the remaining period of office.
 - (8) The Medical Superintendent shall be the Chairman of the Board.
 - (9) The Minister shall designate, from the staff of the Ministry of Health, a Registrar who shall also perform the duties of the Secretary of the Board, and such officers as are necessary for the implementation of the Act.
 - (10) The seal of the Board shall be kept in the custody of the Registrar and shall be affixed by the Registrar or any other officer duly authorized by the Board to documents authorized to be sealed by the Board.
 - (11) The Board shall determine the procedures and rules governing its meetings.
 - (12) The Board shall meet as required and shall report to the Council by way of provision of the Minutes of the Board Meetings.
 - (13) The Board shall prepare annually a report of its activities during the preceding 12 months and this report shall be made to the Minister.
 - (14) The Board has the authority to summon and compel the attendance of any person while conducting complaints and disciplinary proceeding under Part IV.
 - (15) An act in good faith, by the Minister, Registrar, Chairman or any Board member shall not subject that person to any liability.

PART III - REGISTRATION OF MEDICAL PRACTITIONERS, HEALTH OFFICERS, DENTISTS AND DENTAL THERAPISTS

4 Registers

- (1) For the purposes of this Act, the Board shall maintain a register of medical practitioners, a register of health officers, a register of dentists and a register of dental therapists.
- (2) The registers may be kept by electronic means.

5 Applications for registration

The Board shall determine the form in which applications for registration as a medical practitioner, health officer, dentist or dental therapist shall be made.

6 Registration

- (1) A person shall be entitled to be registered as a medical practitioner, health officer, dentist or dental therapist if he holds the qualification prescribed by regulation.
- (2) Where a person applies to be registered as a medical practitioner, health officer, dentist or dental therapist and the Board decides that he is entitled to be so registered, the Board shall grant the applicant a certificate of registration in Form 1 prescribed in the Schedule.
- (3) Where a person has ceased to be registered as a medical practitioner, health officer, dentist or dental therapist for a consecutive period of 5 years, whether within or outside the Kingdom, the Board may refuse to register the applicant unless the applicant has passed such oral or written examination or carried out such training at a standard considered satisfactory to the Board, as the Board considers appropriate.

7 Effect of registration

A person duly registered under this Act shall be entitled to engage in the practice in which he is so registered pursuant to this Act.

8 Provisional registration

- (1) Where a person has applied for registration as a medical practitioner, health officer, dentist or dental therapist, the chairman of the Board may, if satisfied that the person has the requisite qualification and experience, and on payment of the prescribed fee, grant to that person a certificate of provisional registration in Form 2 prescribed in the Schedule.

- (2) Where a person has obtained a certificate of provisional registration the person shall be deemed to be registered under the Act until —
 - (a) the date stated in the certificate; or
 - (b) such later date as may be fixed by the Board,which date shall, in either case, be not later than 3 months after the granting of the certificate.
- (3) The Board may, at any time before the date so stated or fixed, cancel a certificate of provisional registration.
- (4) Upon the cancellation of a certificate of provisional registration, the holder of the certificate shall no longer be deemed to be registered.
- (5) If a person to whom a certificate of provisional registration has been granted becomes registered before the date stated or fixed pursuant to subsection (2), the registration shall, unless otherwise decided by the Board, date from the granting of the provisional certificate.

9 Temporary registration

The Registrar, subject to the approval of the chairman of the Board, may register medical practitioners, health officers, dentists or dental therapists who are registered as such in another jurisdiction, for up to 3 months. The Board shall prescribe the fee payable for such temporary registration.

10 Minister's power to exempt

The Minister may, subject to such conditions as he thinks fit, exempt in writing members of short-term visiting specialist health teams or individual short-term visiting medical practitioners, health officers, dentists or dental therapists from the requirements of this Act.

11 Holding out

- (1) No person, except a medical practitioner, health officer, dentist or dental therapist, shall —
 - (a) represent or hold out, expressly or by implication, that he is entitled to engage in the practice of medicine or dentistry;
 - (b) use any sign, emblem, title or advertisement implying that the person is a medical practitioner, health officer, dentist or dental therapist; or
 - (c) use the title medical practitioner, health officer, dentist or dental therapist or any similar designation or abbreviation implying that he is registered as a medical practitioner, health officer, dentist or dental therapist.

- (2) Any person who contravenes this section commits an offence and upon conviction shall be liable to a fine not exceeding \$10,000 or 5 years imprisonment or both.

12 Content of the registers

A person shall be registered by entering in the appropriate register —

- (a) the name of the person;
- (b) the date of birth of the person;
- (c) the person's professional address in the Kingdom or, if the person has no professional address, the person's place of residence;
- (d) particulars of the qualifications entitling the person to be registered;
- (e) the registration number allocated to the person;
- (f) the date of registration;
- (g) any condition to which the person's registration is subject; and
- (h) such other particulars, if any, as are prescribed.

13 Roll fee

- (1) Every medical practitioner, health officer, dentist or dental therapist shall, on or before the 31st day of October in each year (which day is in this section referred to as the "prescribed day") pay to the Registrar a roll fee fixed by the Board for the year commencing on the first day of January next following the prescribed day.
- (2) The medical practitioner, health officer, dentist or dental therapist shall furnish particulars of his address for entry in the register and such other particulars as may be prescribed.
- (3) If the person does not pay the roll fee referred to in subsection (1) on or before the prescribed day in any year, the Board shall forthwith notify the person by letter addressed to him at the address appearing in the appropriate register that if the fee be not paid before the end of the first working day of the next calendar year the person's name shall be removed from the register as from the next day.
- (4) If the name of a medical practitioner, health officer, dentist or dental therapist has been removed from the register under this section, the Board shall, upon application in writing and upon being satisfied that the person is of good character, restore the person's name to the register upon payment of the outstanding roll fee and a reinstatement fee fixed by the Board.

14 Removal from the registers

- (1) After due inquiry, as laid down in Part IV, the Board may direct that the name and other particulars of a medical practitioner, health officer, dentist or dental therapist be removed from the appropriate register if —
 - (a) the person is convicted of an offence under this Act or under any other legislation relating to drugs;
 - (b) the person has obtained registration by fraud or misrepresentation;
 - (c) the qualification on the basis of which registration was awarded is withdrawn or cancelled by the authority which awarded it;
 - (d) the person is guilty of unsatisfactory professional conduct or professional misconduct which, after due inquiry by the Board, renders the person unfit to be a medical practitioner, health officer, dentist or dental therapist; or
 - (e) the person's name has been removed from a register of medical practitioners, health officers, dentists or dental therapists in another jurisdiction having been found guilty of unsatisfactory professional conduct or professional misconduct.
- (2) The Board may suspend the registration of a medical practitioner, health officer, dentist or dental therapist pending investigations and disciplinary inquiry.

PART IV - COMPLAINTS AND DISCIPLINARY PROCEEDINGS**15 Making of complaints**

Any person may make a complaint in writing to the Registrar that a medical practitioner, health officer, dentist or dental therapist—

- (a) has been convicted in the Kingdom or elsewhere of an offence involving fraud, drugs or dishonesty;
- (b) has been guilty of unsatisfactory professional conduct or professional misconduct;
- (c) does not have sufficient physical or mental capacity to carry on practice as a medical practitioner, health officer, dentist or dental therapist; or
- (d) is not of good character.

16 Procedure on receipt of complaint

- (1) The Registrar shall refer any complaint to the Board.

- (2) The Board may require the complainant to provide further particulars of the complaint and may make such preliminary inquiries concerning the complaint as it thinks fit.
- (3) The Board shall inform the medical practitioner, health officer, dentist or dental therapist against whom the complaint is made of the particulars of the complaint and invite that person to make, within such time as the Board specifies in the notice, such representations to the Board with respect to the complaint as he thinks fit.
- (4) The Board is required to consider any representations made to it within the time specified in its notice.

17 Dealing with complaints⁴

The Board may decide at any time in relation to a complaint that it will —

- (a) deal with the complaint at a meeting of the Board;
- (b) conduct an inquiry into the complaint; or
- (c) decline to deal with or dismiss the complaint.

18 Conduct of inquiry

If the Board decides to conduct an inquiry into a complaint —

- (a) the Board, in conducting the inquiry, shall sit as in open court unless it determines to do otherwise;
- (b) the person against whom the complaint was made is to be afforded an opportunity of defence either in person or by a law practitioner or another adviser;
- (c) the Board is not bound to observe the rules of evidence, but may inform itself of any matter in such manner as it thinks fit; and
- (d) the chairman of the Board is to preside at the inquiry.

19 Power to summon witnesses to inquiry

- (1) The chairman of the Board may summon a person to appear at any inquiry conducted by the Board, to give evidence and to produce such documents as are referred to in the summons.
- (2) The Board may take evidence on oath and require a person appearing at the inquiry to give evidence on oath.
- (3) A person served with a summons shall in the absence of any reasonable excuse attend as required by the summons.

- (4) A person appearing at an inquiry to give evidence shall not, without reasonable excuse, fail to answer a question or to produce a document that he is required to produce.
- (5) Any person who fails to comply with this section commits an offence.

20 Power to obtain documents at inquiry

- (1) The chairman of the Board may, by written notice, require any person to attend before a member of the Board, at a time and place specified in the notice and to produce any documents specified in the notice.
- (2) Any person who fails to comply with this section commits an offence.

21 Evidence of other proceedings⁵

The Board may receive and admit, as evidence at any inquiry —

- (a) the judgment and findings of any court (whether civil or criminal) or tribunal made within or outside the Kingdom;
- (b) the verdict or findings of a jury of any such court;
- (c) a certificate of the conviction of any person; or
- (d) a transcript, duly certified by the registrar or clerk of the court or tribunal as correct, of the evidence of witnesses taken in any such court or tribunal,

where the Board is of the opinion that the judgment, findings, verdict, certificate or evidence is or are relevant to the proceedings.

22 Additional complaints

- (1) The Board may at an inquiry deal with one or more complaints about a medical practitioner, health officer, dentist or dental therapist.
- (2) If, during any such inquiry, it appears to the Board that, having regard to any matters that have arisen, another complaint could have been made against the medical practitioner, health officer, dentist or dental therapist concerned —
 - (a) whether instead of or in addition to the complaint which was made; and
 - (b) whether or not by the same complainant,the Board may take that other complaint as having been referred to it and may deal with it at the same inquiry.
- (3) If another complaint is taken to have been referred to the Board under subsection (2) the complaint may be dealt with after such as adjournment (if any) as is, in the opinion of the Board, just and equitable in the circumstances.

23 Release of information concerning inquiry

- (1) The chairman at any inquiry conducted by the Board may, on the request of a complainant, the medical practitioner, health officer, dentist or dental therapist concerned, or any other person, if he thinks it appropriate in the particular circumstances of the case, direct that all of the following matters —
 - (a) the name and address of any witness;
 - (b) the name and address of a complainant;
 - (c) the name and address of a medical practitioner, health officer, dentist or dental therapist;
 - (d) any specified evidence;
 - (e) the subject matter of a complaint;

shall not be published, except in a publication intended primarily for the use of members of the medical, dental or legal professions.

- (2) A direction under subsection (1) may be amended or revoked at any time by the chairman.
- (3) A direction may be given before or during an inquiry, but is not to be given before the inquiry unless notice is given to —
 - (a) the complainant who requested the direction;
 - (b) the complainant, the medical practitioner, health officer, dentist or dental therapist concerned, as appropriate; and
 - (c) such other persons as the chairman thinks fit,of the time and place appointed by the chairman for consideration of the request.
- (4) A person who contravenes a direction given under this section, without reasonable excuse, commits an offence.

24 Authentication of documents

Every document requiring authentication by the Board may be sufficiently authenticated if signed by the chairman of the Board or by a member of the Board authorized to do so by the chairman without the seal of the Board.

25 Representative complainant

At any inquiry, an officer of the Ministry of Health appointed by the Chief Executive Officer for Health may, with the consent of the complainant, act for the complainant.⁶

26 Expedition of inquiries

- (1) It is the duty of the Board to conduct inquiries under this Act and to determine those inquiries as soon as is reasonably practicable.
- (2) Without affecting the generality of subsection (1), the Board may postpone or adjourn an inquiry being conducted by it as it thinks fit.

27 Evidentiary certificate⁷

A certificate by the Registrar, that —

- (a) a person was not a medical practitioner, health officer, dentist or dental therapist, as appropriate;
- (b) the name of a person specified in the certificate was removed from the register;
- (c) a person was suspended from practice as a medical practitioner, health officer, dentist or dental therapist; or
- (d) a condition, particulars of which are set out in the certificate, was —
 - (i) imposed on the registration of a person so specified; or
 - (ii) revoked or not in force,

shall be received by the Board, the Council and all courts as *prima facie* evidence of its contents.

28 Certain complaints not to be heard⁸

- (1) The Board may decide not to conduct an inquiry, or at any time to terminate an inquiry, if —
 - (a) a complainant fails to comply with a requirement made by the Board; or
 - (b) the person about whom the complaint is made ceases to be a medical practitioner, health officer, dentist or dental therapist.
- (2) The Board or Council shall not conduct or continue any inquiry or any appeal if the medical practitioner, health officer, dentist or dental therapist has died.

29 Consequences of misconduct

- (1) The Board may, if it is satisfied that the subject matter of a complaint against a medical practitioner, health officer, dentist or dental therapist is proved, do any one or more of the following —
 - (a) caution or reprimand the person;
 - (b) order that the person seek medical or psychiatric treatment or counselling;

- (c) order that such conditions, relating to the person's practice of medicine or dentistry, as it considers appropriate, be imposed on the person's registration;
 - (d) order that any authority of that person to prescribe or administer narcotic drugs and psychotropic substances be withdrawn;
 - (e) order that the person complete such educational courses as are specified by the Board;
 - (f) order that the person report on the person's medical or dentistry practice at the times, in the manner and to the persons specified by the Board;
 - (g) impose a fine not exceeding \$2000;
 - (h) order that the person's registration be suspended for such period not exceeding 12 months as the Board thinks fit;
 - (i) order that the person's name be removed from the register.
- (2) If the registration of a medical practitioner, health officer, dentist or dental therapist is suspended under this section, the Registrar shall note in the register the suspension and its date and cause.
- (3) The Board shall not suspend a person's registration or remove a person's name from the register for having committed an offence if, having regard to the nature of the offence or the circumstances under which it was committed, the Board is of the opinion that it does not render the person unfit in the public interest to be registered as a medical practitioner, health officer, dentist or dental therapist.

30 Unfitness

- (1) Notwithstanding any other provision of this Act, where the Board is satisfied that any applicant for registration under this Act or any medical practitioner, health officer, dentist or dental therapist is, by reason of infirmity, injury or illness, whether mental or physical, unfit to carry on the practice of medicine or dentistry, the Board shall —
- (a) refuse to register the applicant's name in the register;
 - (b) order that the name of the person be removed from the appropriate register; or
 - (c) order that the person be suspended from practice as a medical practitioner, health officer, dentist or dental therapist for such period as may be specified.
- (2) For the purposes of subsection (1) the Board may
- (a) require an applicant for registration, a medical practitioner, health officer, dentist or dental therapist to be examined by any medical practitioner as may be specified by the Board; and

- (b) hold such inquiry as the Board thinks fit.
- (3) A failure or refusal by any person required by the Board to be examined in accordance with a requirement of the Board made under subsection (2)(a) may be regarded by the Board as evidence that the person is, by reason of infirmity, injury or illness, whether mental or physical, unfit to carry on the practice of medicine or dentistry.
- (4) Nothing in subsection (1) affects the powers of the Board under any other provision of this Act to refuse an application for registration under this Act or to remove the name of a medical practitioner, health officer, dentist or dental therapist from the register or to suspend a medical practitioner, health officer, dentist or dental therapist from practice.

31 Removal from register outside the Kingdom²

Where a medical practitioner, health officer, dentist or dental therapist has, while registered under this Act, been —

- (1) removed from the register; or
- (2) suspended from practice,

as a medical practitioner, health officer, dentist or dental therapist for professional misconduct, in some place outside the Kingdom, the Board may order that the person's name be removed from the register or that the medical practitioner, health officer, dentist or dental therapist be suspended from the practice of medicine or dentistry for such period not exceeding 12 months, as the Board determines.

32 Effect of Board's order¹⁰

- (1) An order made by the Board under section 29 or 31 shall take effect one month from the date the order is served personally on the medical practitioner, health officer, dentist or dental therapist, or is sent by registered post by the Registrar to the medical practitioner, health officer, dentist or dental therapist at the address appearing in the register.
- (2) If within such period the medical practitioner, health officer, dentist or dental therapist applies in writing to the Council, for a review of the Board's decision under section 34, the order shall not be effective until the review proceedings have been completed.

33 Copy of decision¹¹

- (1) If, under section 29, the Board decides to make an order in respect of a person or decides to caution or reprimand a person, the Board shall, within one month of making its order, provide the person, and any person who made a complaint which resulted in the order or decision and such other persons as it considers appropriate, with a copy statement of its decision.

- (2) If the Board makes a decision in relation to a person under any provision of this Act, other than section 29, the person may request in writing that the Board provide the person with a copy of the decision.
- (3) Any such request shall be made within 60 days after the decision to which it relates.
- (4) The Board shall provide a copy of the decision within one month of receipt of such a request.
- (5) A copy of a decision shall —
 - (a) set out any findings on material questions of fact;
 - (b) refer to any evidence or other material on which the findings were based;
 - (c) give the reasons for the decision.

34 Review of orders of the Board

- (1) Any person aggrieved —
 - (a) by an order made under sections 29 or 31; or
 - (b) by any refusal or failure to register the person as a medical practitioner, health officer, dentist or dental therapist,may, not later than one month after being served with, or sent, the order in accordance with section 32, or not later than 3 months after the application for registration was lodged, apply to the Council for review.
- (2) Any such review will be in the nature of a new hearing at which new evidence may be given.
- (3) The Council may make such order as it thinks fit.
- (4) The provisions of this section do not apply to enable an applicant for provisional registration or the holder of a certificate of provisional registration that has been cancelled to apply for a review of the refusal or cancellation of the certificate of provisional registration.

35 Effect of removal from register or suspension

- (1) Where the name of a medical practitioner, health officer, dentist or dental therapist has been removed from a register under this Act, and until the person's name is restored thereto, the medical practitioner, health officer, dentist or dental therapist shall be deemed not to be registered under this Act.
- (2) Where a medical practitioner, health officer, dentist or dental therapist has been suspended from practice as a medical practitioner, health officer, dentist or dental therapist under this Act, the Registrar shall make an entry in the register of that fact and of the date and cause thereof.

36 Surrender of certificates of registration

- (1) Any person whose name is removed from the register, or who has been suspended from practice as a medical practitioner, health officer, dentist or dental therapist or whose certificate of provisional registration has been cancelled, pursuant to the provisions of this Act, shall within 14 days from receipt of the notification of such removal or suspension or cancellation surrender to the Board any certificate of registration or provisional registration issued to the person under this Act.
- (2) Any person who, without reasonable excuse, contravenes this section commits an offence against this Act and is liable on conviction to a fine not exceeding \$200.

37 Restoration of name to register

- (1) Where the name of any person has been removed from the register (otherwise than under section 13(3)), or any person has been suspended from the practice of medicine or dentistry, the person's name shall not be restored to the register, and the suspension of such person shall not be terminated before the period for which the suspension was imposed, except by direction of the Board or by order of the Council or order of a court of competent jurisdiction.
- (2) The Board may, if it thinks fit in any case, direct the Registrar, without fee or on payment of such fee, not exceeding the current registration fee as the Board may direct, to restore to a register any name removed there from and the Registrar shall restore the name accordingly.

PART V - MISCELLANEOUS**38 Supervised practice**

Nothing in this Act prevents a person from engaging in the supervised practice of medicine or dentistry to the extent required as part of clinical medical or dental training provided that such practice is in accordance with any other conditions that may be prescribed in the regulations.

39 Making false or fraudulent representation¹²

A person who, in an application for registration under this Act, makes or produces any false or fraudulent representation, certificate or affidavit, either verbally or in writing, and any person who knowingly aids or assists therein commits an offence and shall be liable on conviction to a fine not exceeding \$2000 or to imprisonment for a term not exceeding 12 months or both.

40 Offence and penalty

Any person who contravenes or fails to comply with any provision of this Act or any regulation made under this Act commits an offence, and on conviction shall, where no other penalty is provided, be liable to a fine not exceeding \$2000 or imprisonment for a term not exceeding 12 months or both; and in the case of a continuing offence, to a fine not exceeding \$100 for every day or part of a day during which the offence has continued.

41 Prosecutions

- (1) Prosecutions for an offence under this Act may be brought —
 - (a) by or on behalf of the Attorney General; or
 - (b) by a member of the police.
- (2) A person referred to in subsection (1)(b), whether or not a law practitioner, may lay, institute or conduct any charge, information, complaint or other proceedings arising under this Act, subject to any directions issued by the Attorney General.

42 Crown to be bound

This Act binds the Crown.

43 Regulations

The Minister may, with the consent of the Cabinet, make regulations prescribing matters necessary or convenient to be made for carrying out or giving effect to this Act and, in particular, for the following purposes —

- (a) prescribing the duties of the Registrar;
- (b) prescribing the fees payable under the Act and the regulations;
- (c) exempting from the operation of any of the provisions of this Act or the regulations made hereunder such persons or classes of persons as may be specified;
- (d) providing codes of conduct for medical practitioners, health officers, dentists and dental therapists;
- (e) prescribing the qualifications for registration as a medical practitioner, health officer, dentist or dental therapist;
- (f) prescribing the format of any examination to be conducted by the Board in connection with the registration of medical practitioners, health officers, dentists or dental therapists;
- (g) prescribing the grounds on which registration may be suspended; and

- (h) prescribing the procedures to be followed in conducting disciplinary inquiries.

44 Savings

- (1) All persons who, at the commencement of this Act, are registered under the Health Practitioners Registration Act 1991 shall be deemed to be registered under this Act.
- (2) A reference in any other Act or instrument to a registered medical practitioner, health officer, dentist or dental therapist registered under the Health Practitioners Registration Act 1991, shall be read and construed as a reference to a medical practitioner, health officer, dentist or dental therapist registered under this Act.

SCHEDULE

FORM 1

CERTIFICATE OF REGISTRATION

(Medical and Dental Practice Act)

(Section 6(2))

This is to certify that the name of was entered in the Register of Medical Practitioners, Health Officers, Dentists or Dental Therapists for the Kingdom of Tonga as a under the Medical and Dental Practice Act on the day of20.....

Registration No:.....

.....

Registrar

This certificate must be retained as evidence that you have been registered in the Kingdom of Tonga.

FORM 2

CERTIFICATE OF PROVISIONAL REGISTRATION

(Medical and Dental Practice Act)

(Section 8(1))

Medical and Dental Practice Board of the Kingdom of Tonga

This is to certify that the name of is provisionally registered as a
..... until the day of 20.....

Registration No:.....

.....

Registrar

**This certificate of provisional registration covers practice until the expiry date shown.
This certificate must be retained following the expiry date as evidence that you have
been provisionally registered in the Kingdom of Tonga**

ENDNOTES

¹ **Act 5 of 2001**, commencement 1 January, 2004

Amending Acts	Commencement
Act 3 of 2004	23 August 2004
Act 5 of 2012	30 July 2012

² Amended by Act 3 of 2004

³ Amended by Act 3 of 2004

⁴ Amended by Act 3 of 2004

⁵ Amended by Act 3 of 2004

⁶ Amended by Act 5 of 2012

⁷ Amended by Act 3 of 2004

⁸ Amended by Act 3 of 2004

⁹ Amended by Act 3 of 2004

¹⁰ Amended by Act 3 of 2004

¹¹ Amended by Act 3 of 2004

¹² Amended by Act 3 of 2004