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No. 27275

THE PRESIDENCY

No. 132

11 February 2005

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 35 of 2004: Traditional Health Practitioners Act, 2004.

DIE PRESIDENSIE

No. 132

11 Februarie 2005

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 35 van 2004: Wet op Tradisionele Gesondheidspraktisyns, 2004.

(English text signed by the President.)
(Assented to 7 February 2005.)

ACT

To establish the Interim Traditional Health Practitioners Council of South Africa; to provide for a regulatory framework to ensure the efficacy, safety and quality of traditional health care services; to provide for the management and control over the registration, training and conduct of practitioners, students and specified categories in the traditional health practitioners profession; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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(Engelse teks deur die President geteken.)
(Goedgekeur op 7 Februarie 2005.)

WET

Om die Suid-Afrikaanse Tussentydse Raad vir Tradisionele Gesondheidspraktisyns in te stel; om voorsiening te maak vir 'n reguleringsraamwerk om die doelmatigheid, veiligheid en gehalte van tradisionele gesondheidsorgdienste te verseker; om voorsiening te maak vir die bestuur van en beheer oor die registrasie, opleiding en gedrag van praktisyns, studente en vermelde kategorieë in die beroep van tradisionele gesondheidspraktisyn; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

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CHAPTER 1

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Definitions

1. In this Act, unless the context indicates otherwise—
- “**accredited institution**” means an institution, approved by the Council, which certifies that a person or body has the required capacity to perform the functions within the sphere of the National Quality Framework contemplated in the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995);

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HOOFSTUK 1**Woordomskrywing**

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
 “**Departement van Gesondheid**” die nasionale Departement van Gesondheid;
 “**geakkrediteerde instelling**” ’n instelling deur die Raad goedgekeur wat 50
 sertifiseer dat ’n persoon of liggaam oor die vereiste vermoë beskik om die
 werkzaamhede te verrig binne die sfeer van die Nasionale Kwalifikasieraamwerk

- “Council”** means the Interim Traditional Health Practitioners Council of South Africa established by section 4;
- “Department of Health”** means the national Department of Health;
- “diviner”** means a person who engages in traditional health practice and is registered as diviner under this Act; 5
- “health establishment”** means any public or private institution, facility, agency, building or place or part thereof, whether organised for profit or not, that is operated or designed to provide health services;
- “health services”** includes inpatient or outpatient treatment, diagnostic or therapeutic interventions, nursing and rehabilitative, palliative, convalescent and preventative health services; 10
- “herbalist”** means a person who engages in traditional health practice and is registered a herbalist under this Act;
- “member”** means a member of the Council and includes a member of a committee of the Council; 15
- “Minister”** means the Minister responsible for the national Department of Health;
- “prescribed”** means prescribed by regulation;
- “register”** means a register contemplated in section 19(1)(c);
- “registrar”** means the registrar of the Council appointed in terms of section 18;
- “rule”** means a rule made under section 40 or 48; 20
- “speciality”**, in relation to any of the categories, includes any particular sphere of extensive knowledge and skill in which a traditional health practitioner specialises;
- “student”** means a person training to be a traditional health practitioner;
- “this Act”** includes any regulation, rule, proclamation or order issued or made thereunder; 25
- “traditional birth attendant”** means a person who engages in traditional health practice and is registered as a traditional birth attendant under this Act;
- “traditional health practice”** means the performance of a function, activity, process or service based on a traditional philosophy that includes the utilisation of traditional medicine or traditional practice and which has as its object— 30
- (a) the maintenance or restoration of physical or mental health or function; or
- (b) the diagnosis, treatment or prevention of a physical or mental illness; or
- (c) the rehabilitation of a person to enable that person to resume normal functioning within the family or community; or
- (d) the physical or mental preparation of an individual for puberty, adulthood, pregnancy, childbirth and death, 35
- but excludes the professional activities of a person practising any of the professions contemplated in the Pharmacy Act, 1974 (Act No. 53 of 1974), the Health Professions Act, 1974 (Act No. 56 of 1974), the Nursing Act, 1974 (Act No. 50 of 1974), the Allied Health Professions Act, 1982 (Act No. 63 of 1982), or the Dental Technicians Act, 1979 (Act No. 19 of 1979), and any other activity not based on traditional philosophy;
- “traditional health practitioner”** means a person registered under this Act in one or more of the categories of traditional health practitioners;
- “traditional medicine”** means an object or substance used in traditional health practice for— 45
- (a) the diagnosis, treatment or prevention of a physical or mental illness; or
- (b) any curative or therapeutic purpose, including the maintenance or restoration of physical or mental health or well-being in human beings, 50
- but does not include a dependence-producing or dangerous substance or drug;
- “traditional philosophy”** means indigenous African techniques, principles, theories, ideologies, beliefs, opinions and customs and uses of traditional medicines communicated from ancestors to descendants or from generations to generations, with or without written documentation, whether supported by science or not, and which are generally used in traditional health practice; 55
- “traditional surgeon”** means a person registered as a traditional surgeon under this Act;

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- beoog in die **Wet op die Suid-Afrikaanse Kwalifikasie-owerheid, 1995 (Wet No. 58 van 1995)**;
- “gesondheidsdienste”** ook binnepasiënt- of buitepasiëntbehandeling, diagnostiese of terapeutiese ingrypings, verpleging en rehabilitatiewe, palliatiewe, herstellende en voorkomende gesondheidsdienste; 5
- “gesondheidsinstelling”** enige openbare of private instelling, fasiliteit, agentskap, gebou of plek of deel daarvan, hetsy vir winsneming georganiseer al dan nie, wat bedryf word of ontwerp is om gesondheidsdienste te voorsien;
- “hierdie Wet”** ook ’n regulasie, reël, proklamasie of bevel daarkragtens uitgereik of uitgevaardig; 10
- “kruiedokter”** ’n persoon wat besig is met tradisionele gesondheidspraktyk en wat kragtens hierdie Wet as kruiedokter geregistreer is;
- “lid”** ’n lid van die Raad en ook ’n lid van ’n komitee van die Raad;
- “Minister”** die Minister verantwoordelik vir die nasionale Departement van Gesondheid; 15
- “onprofessionele gedrag”** enige handeling of versuim wat onbehoorlik of skandelik of oneerbaar is of die tradisionele gesondheidsberoep onwaardig is;
- “Raad”** die Suid-Afrikaanse Tussentydse Raad vir Tradisionele Gesondheidspraktisyns by artikel 4 ingestel;
- “reël”** ’n reël kragtens artikel 40 of 48 uitgevaardig; 20
- “register”** ’n register beoog in artikel 19(1)(c);
- “registrateur”** die registrateur van die Raad aangestel ingevolge artikel 18;
- “spesialiteit”**, met betrekking tot enige van die kategorieë, ook enige bepaalde sfeer van uitgebreide kennis en vaardigheid waarin ’n tradisionele gesondheidspraktisyn spesialiseer; 25
- “student”** ’n persoon wat opleiding ontvang om ’n tradisionele gesondheidspraktisyn te word;
- “tradisionele chirurg”** ’n persoon wat as tradisionele chirurg kragtens hierdie Wet geregistreer is;
- “tradisionele filosofie”** daardie inheemse Afrikategnieke, -beginsels, -teorieë, -ideologieë, -gelowe, -menings en -gewoontes en gebruike van tradisionele geneesmiddels wat van voorsate aan nasate of van geslag aan geslag oorgelewer word, met of sonder skriftelike dokumentasie, hetsy ondersteun deur die wetenskap al dan nie, en wat algemeen in tradisionele gesondheidspraktyk gebruik word; 30
- “tradisionele geboortebegeleier”** ’n persoon wat besig is met tradisionele gesondheidspraktyk en wat kragtens hierdie Wet as tradisionele geboortebegeleier geregistreer is; 35
- “tradisionele geneesmiddel”** ’n voorwerp of stof gebruik in tradisionele gesondheidspraktyk vir die doel van—
- (a) die diagnosering, behandeling of voorkoming van ’n liggaams- of geestesiekte; of 40
- (b) enige kuratiewe of terapeutiese doel, met inbegrip van die instandhouding of herstel van liggaams- of geestesgesondheid of welsyn in mense, maar sluit nie ’n afhanklikheidsvormende of gevaarlike stof of middel in nie;
- “tradisionele gesondheidspraktisyn”** ’n persoon wat kragtens hierdie Wet geregistreer is in een of meer van die kategorieë van tradisionele gesondheidspraktisyn; 45
- “tradisionele gesondheidspraktyk”** die verrigting van ’n werksaamheid, aktiwiteit, proses of diens gegrond op ’n tradisionele filosofie wat die gebruik van tradisionele geneesmiddels of tradisionele praktyk insluit en waarvan die oogmerk is— 50
- (a) die instandhouding of herstel van liggaams- of geestesgesondheid of -werking; of
- (b) die diagnosering, behandeling of voorkoming van ’n liggaam- of geestesiekte; of 55
- (c) die rehabilitasie van ’n persoon sodat daardie persoon normale funksionering binne die familie of gemeenskap kan hervat; of
- (d) die liggaamlike of geestesvoorbereiding van ’n individu op puberteit, volwassenheid, swangerskap, geboorteskenking en sterwe, 60
- maar sluit die professionele aktiwiteite uit van ’n persoon wat enige van die beroepe beoefen wat beoog word in die Wet op Aptekers, 1974 (Wet No. 53 van 1974), die Wet op Gesondheidsberoepes, 1974 (Wet No. 56 van 1974), die Wet op

“traditional tutor” means a person registered under any of the prescribed categories of traditional health practice who has been accredited by the Council to teach traditional health practice or any aspect thereof;

“unprofessional conduct” means any act or omission which is improper or disgraceful or dishonourable or unworthy of the traditional health profession. 5

Purpose of Act

2. The purpose of this Act is to—

- (a) establish the Interim Traditional Health Practitioners Council of South Africa;
- (b) provide for the registration, training and practices of traditional health practitioners in the Republic; and 10
- (c) serve and protect the interests of members of the public who use the services of traditional health practitioners.

Application of Act

3. This Act applies to—

- (a) traditional health practice in the Republic; and 15
- (b) traditional health practitioners and students engaged in or learning traditional health practice in the Republic.

CHAPTER 2

ESTABLISHMENT AND GOVERNANCE OF INTERIM TRADITIONAL HEALTH PRACTITIONERS COUNCIL OF SOUTH AFRICA 20

Establishment of Interim Traditional Health Practitioners Council

4. (1) A juristic person to be known as the Interim Traditional Health Practitioners Council of South Africa is hereby established.

(2) The registrar must convene the first meeting of the Council within three months of the commencement of this Act. 25

(3) The term of office for the Council is three years, but the Minister may, in order to facilitate the implementation of, or development of amendments to, this Act, extend the term of office of the Council for a further period of not more than 24 months.

Objects of Council

5. The objects of the Council are to— 30

- (a) promote public health awareness;
- (b) ensure the quality of health services within the traditional health practice;
- (c) protect and serve the interests of members of the public who use or are affected by the services of traditional health practitioners;
- (d) promote and maintain appropriate ethical and professional standards required from traditional health practitioners; 35
- (e) promote and develop interest in traditional health practice by encouraging research, education and training;
- (f) promote contact between the various fields of training within traditional health practice in the Republic and to set standards for such training; 40
- (g) compile and maintain a professional code of conduct for traditional health practice; and
- (h) ensure that traditional health practice complies with universally accepted health care norms and values.

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Verpleging, 1974 (Wet No. 50 van 1974), die Wet op Verwante Gesondheidsberoep, 1982 (Wet No. 63 van 1982), of die Wet op Tandtegnici, 1979 (Wet No. 19 van 1979), en enige ander aktiwiteit wat nie op tradisionele filosofie gegrond is nie;

“**tradisionele opleier**” ’n persoon wat onder enige van die voorgeskrewe 5 kategorieë van tradisionele gesondheidspraktyk geregistreer is en wat deur die Raad geakkrediteer is om tradisionele gesondheidspraktyk of enige aspek daarvan te onderrig;

“**voorgeskryf**” by regulasie voorgeskryf;

“**wiggelaar**” ’n persoon wat besig is met tradisionele gesondheidspraktyk en wat 10 kragtens hierdie Wet as wiggelaar geregistreer is.

Doel van Wet

2. Die doel van hierdie Wet is om—
- (a) die Suid-Afrikaanse Tussentydse Raad vir Tradisionele Gesondheidspraktisyns in te stel; 15
 - (b) voorsiening te maak vir die registrasie, opleiding en praktyke van tradisionele gesondheidspraktisyns in die Republiek; en
 - (c) die belange te dien en te beskerm van lede van die publiek wat die dienste van tradisionele gesondheidspraktisyns gebruik.

Toepassing van Wet 20

3. Hierdie Wet is van toepassing op—
- (a) tradisionele gesondheidspraktyk in die Republiek; en
 - (b) tradisionele gesondheidspraktisyns en studente wat met tradisionele gesondheidspraktyk in die Republiek besig is of dit leer.

HOOFSTUK 2 25**INSTELLING EN BESTUUR VAN SUID-AFRIKAANSE TUSSENTYDSE RAAD VIR TRADISIONELE GESONDHEIDSPRAKTISYNS****Instelling van Tussentydse Raad vir Tradisionele Gesondheidspraktisyns**

4. (1) ’n Regspersoon, bekend as die Suid-Afrikaanse Tussentydse Raad vir Tradisionele Gesondheidspraktisyns, word hierby ingestel. 30
- (2) Die registrateur moet die eerste vergadering van die Raad binne drie maande na die inwerkingtreding van hierdie Wet byeenroep.
- (3) Die ampstermyn vir die Raad is drie jaar, maar ten einde die toepassing van hierdie Wet of die opstel van wysigings daartoe te fasiliteer, kan die Minister die ampstermyn van die Raad vir ’n verdere tydperk van hoogstens 24 maande verleng. 35

Oogmerke van Raad

5. Die oogmerke van die Raad is om—
- (a) openbare gesondheidsbewustheid te bevorder;
 - (b) die gehalte van gesondheidsdienste in tradisionele gesondheidspraktyk te verseker; 40
 - (c) die belange te beskerm en te dien van lede van die publiek wat die dienste van tradisionele gesondheidspraktisyns gebruik of daardeur geraak word;
 - (d) toepaslike etiese en professionele standaarde vereis van tradisionele gesondheidspraktisyns te bevorder en te handhaaf;
 - (e) belangstelling in tradisionele gesondheidspraktyk te bevorder en te ontwikkel 45 deur navorsing, onderrig en opleiding aan te moedig;
 - (f) kontak tussen die onderskeie velde van opleiding in tradisionele gesondheidspraktyk in die Republiek te bevorder en standaarde vir sodanige opleiding te stel;
 - (g) ’n beroepsgedragskode vir tradisionele gesondheidspraktisyns op te stel en te 50 handhaaf; en
 - (h) te verseker dat tradisionele gesondheidspraktyk voldoen aan universeel aanvaarde gesondheidsorgnorme en -waardes.

Functions of Council

6. (1) The Council may—
- (a) make enquiries and conduct investigations into complaints and allegations concerning the conduct of registered traditional health practitioners; 5
 - (b) issue guidelines concerning traditional health practice; 5
 - (c) hire, purchase or otherwise acquire any movable property or proprietary right, accept and administer any trust or donations and lease or dispose of property so acquired, but may only acquire or dispose of immovable property with the approval of the Minister, granted with the agreement of the Minister of Finance; 10
 - (d) make rules on matters necessary or expedient for the proper implementation of this Act; 10
 - (e) consider any matter affecting the registration of traditional health practitioners and make representations or take other action in connection therewith;
 - (f) in writing and on such conditions as the Council may determine, delegate or assign any power or duty of the Council to any committee or a member of any committee, but such delegation or assignment does not divest the Council of the responsibility or accountability concerning the performance of the function involved; 15
 - (g) cause copies of the registers or of supplementary lists containing amendments to the relevant registers, to be printed and published; 20
 - (h) require from a registered traditional health practitioner such information as is necessary to enable the Council to carry out its functions effectively;
 - (i) approve minimum requirements pertaining to the education and training of traditional health practitioners in consultation with relevant departments, quality assessment bodies or a body of traditional health practitioners accredited by the Council for this specific purpose; 25
 - (j) appoint such staff as the Council considers necessary to assist the Council in performance of its functions; and
 - (k) generally do all such things as are necessary to enable the Council to perform its functions in terms of this Act. 30
- (2) The Council must—
- (a) in the interests of the public, promote and regulate, liaison between traditional health practitioners and other health professionals registered under any law;
 - (b) implement health policies determined by the Minister concerning traditional health practice; 35
 - (c) advise the Minister on any matter falling within the scope of this Act, including the health needs of the people of South Africa, and the traditional health practice, and on matters of democracy, transparency, equity, accessibility and community involvement affecting the occupation of traditional health practice; 40
 - (d) communicate to the Minister information of public importance acquired by the Council in the course of the performance of its functions under this Act;
 - (e) consult and liaise with relevant authorities on matters that affect traditional health practitioners and involve traditional health practice; 45
 - (f) in consultation with the Minister, determine policy, and in accordance with policy determinations, make decisions regarding matters relating to the educational framework, fees, funding, registration procedure, code for professional conduct and ethics, disciplinary procedure and scope of traditional health practice; 50
 - (g) control and exercise authority in respect of all matters concerning the training of persons in traditional health practice and the conduct of its members;
 - (h) in consultation with the Minister, control and regulate traditional health practice;
 - (i) establish registers for the various categories of traditional health practitioners; 55

Werkzaamhede van Raad

- 6. (1) Die Raad kan—**
- (a) navrae doen oor en ondersoek uitvoer na klagtes en bewerings rakende die gedrag van geregistreerde tradisionele gesondheidspraktisyns;
 - (b) riglyne rakende tradisionele gesondheidspraktyk uitreik; 5
 - (c) roerende eiendom of eiendomsreg huur, koop of andersins bekom, enige trust of donasies aanvaar en administreer en eiendom aldus bekom, verhuur of daarvoor beskik, maar kan slegs onroerende eiendom bekom of daarvoor beskik met die goedkeuring van die Minister, vergun met die instemming van die Minister van Finansies; 10
 - (d) reëls uitvaardig oor aangeleenthede nodig of dienstig vir die behoorlike toepassing van hierdie Wet;
 - (e) enige aangeleentheid oorweeg wat die registrasie van tradisionele gesondheidspraktisyns raak en met betrekking daartoe vertoë rig of ander stappe doen; 15
 - (f) skriftelik en op die voorwaardes wat die Raad bepaal, aan enige komitee of 'n lid van enige komitee enige bevoegdheid of plig van die Raad delegeer of toewys, maar sodanige delegering of toewysing ontdoen nie die Raad van die verantwoordelikheid of verantwoordingspligtigheid rakende die verrigting van die betrokke werksaamheid nie; 20
 - (g) afskrifte van die registers of van aanvullende lyste wat wysigings van die tersaaklike registers bevat, laat druk en publiseer;
 - (h) van 'n tradisionele gesondheidspraktisyn die inligting vereis wat nodig is om die Raad in staat te stel om sy werksaamhede doeltreffend te verrig;
 - (i) minimum vereistes van toepassing op die onderrig en opleiding van tradisionele gesondheidspraktisyns goedkeur in oorleg met tersaaklike departemente, gehaltebeoordelingsinstansies of 'n liggaam van tradisionele gesondheidspraktisyns wat vir hierdie spesifieke doel deur die Raad geakkrediteer is; 25
 - (j) die personeel aanstel wat die Raad nodig ag om die Raad in die verrigting van sy werksaamhede by te staan; en 30
 - (k) oor die algemeen al die dinge doen wat nodig is om die Raad in staat te stel om sy werksaamhede ingevolge hierdie Wet te verrig.
- (2) Die Raad moet—**
- (a) in die belang van die publiek skakeling tussen tradisionele gesondheidspraktisyns en ander gesondheidsberoepslui wat kragtens enige reg geregistreer is, bevorder en reguleer; 35
 - (b) gesondheidsbeleidsrigtings rakende tradisionele gesondheidspraktyk wat deur die Minister bepaal is, implementeer;
 - (c) die Minister adviseer oor enige aangeleentheid wat binne die bestek van hierdie Wet val, met inbegrip van die gesondheidsbehoefte van die mense van Suid-Afrika en die tradisionele gesondheidspraktyk, en oor aangeleenthede betreffende demokrasie, deursigtigheid, billikheid, toeganklikheid en gemeenskapsbetrokkenheid wat die beroep van tradisionele gesondheidspraktyk raak; 45
 - (d) aan die Minister inligting van openbare belang oordra wat deur die Raad bekom is in die loop van die verrigting van sy werksaamhede kragtens hierdie Wet;
 - (e) met tersaaklike owerhede oorleg pleeg en skakel oor aangeleenthede wat tradisionele gesondheidspraktisyns raak en tradisionele gesondheidspraktyk behels; 50
 - (f) in oorleg met die Minister beleid bepaal en, ooreenkomstig beleidsbepalings, besluite neem betreffende aangeleenthede wat betrekking het op die opvoedkundige raamwerk, gelde, finansiering, registrasieprosedure, kode vir beroepsgedrag en etiek, tugprosedure en bestek van tradisionele gesondheidspraktyk; 55
 - (g) gesag beheer en uitoefen oor alle aangeleenthede ten opsigte van die opleiding van persone in die tradisionele gesondheidspraktyk en die gedrag van sy lede;
 - (h) in oorleg met die Minister tradisionele gesondheidspraktyk beheer en reguleer; 60
 - (i) registers vir die onderskeie kategorieë tradisionele gesondheidspraktisyns instel;

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- (j) register persons who engage in traditional health practice in accordance with the prescribed requirements for registration;
- (k) in such circumstances as may be prescribed, or where authorised by this Act, remove a person's name from the register or, 'must' upon payment of the prescribed fee, restore a person's name to the register; 5
- (l) obtain from any registered traditional health practitioner payment of the prescribed fee;
- (m) in such circumstances as may be prescribed, suspend or cancel any traditional health practitioner's registration; and
- (n) publish information regarding the objects and functions of the Council and its operations and the rights that any member of the public has under this Act. 10

Constitution of Council

7. The Council consists of a maximum of 22 members, appointed by the Minister in the prescribed manner, of whom—

- (a) one must be a traditional health practitioner appointed as the chairperson of the Council by the Minister; 15
- (b) one is the vice-chairperson of the Council and is elected by the members of the Council from amongst their number;
- (c) nine must be traditional health practitioners, one from each province, of whom each must have been in practice for not less than five years; 20
- (d) one must be an employee in the service of the Department of Health;
- (e) one must be appointed on account of his or her knowledge of the law;
- (f) one must be a medical practitioner who is a member of the Health Professions Council of South Africa;
- (g) one must be a pharmacist who is a member of the South African Pharmacy Council; 25
- (h) three must be community representatives; and
- (i) one must be a representative from each category of traditional health practitioners defined in this Act.

Vacation of office and filling of vacancies 30

8. (1) A member of the Council must vacate his or her office if—

- (a) he or she ceases to be a South African citizen;
- (b) he or she is diagnosed as having a mental illness or becomes a mental health care user as defined in section 1 of the Mental Health Care Act, 2002 (Act No. 17 of 2002); 35
- (c) he or she has been convicted of an offence and sentenced to imprisonment without the option of a fine, whether or not such sentence has been suspended;
- (d) he or she is disqualified in terms of any law from practising as a traditional health practitioner;
- (e) he or she ceases to hold the necessary qualification for his or her designation or appointment; 40
- (f) he or she tenders his or her resignation, in writing, to the Minister;
- (g) he or she is absent from two consecutive meetings of the Council without the leave of the Council;
- (h) his or her estate is sequestrated or he or she has entered into a composition with his or her creditors; 45
- (i) he or she becomes impaired to the extent that he or she is unable to carry out his or her duties as a member of the Council;
- (j) the Minister, in the public interest or on grounds of misconduct, incapacity or incompetence, terminates his or her membership; or 50
- (k) the period for which the member was appointed has expired and his or her appointment is not renewed by the Minister.

(2) If a member of the Council dies or vacates his or her office before the expiration of his or her term of office, the Minister must appoint another person to fill the vacancy for the remainder of the period of the term of office for which such member was appointed. 55

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- (j) persone wat met tradisionele gesondheidspraktyk besig is ooreenkomstig die voorgeskrewe vereistes vir registrasie registreer; 5
- (k) in die omstandighede wat voorgeskryf word, of waartoe gemagtig by hierdie Wet, 'n persoon se naam uit die register verwyder of "moet" by betaling van die voorgeskrewe gelde 'n persoon se naam in die register herstel; 5
- (l) van enige geregistreerde tradisionele gesondheidspraktisyn betaling van die voorgeskrewe gelde verhaal; 5
- (m) in die omstandighede wat voorgeskryf word, enige tradisionele gesondheidspraktisyn se registrasie opskort of intrek; en 5
- (n) inligting publiseer aangaande die oogmerke en werksaamhede van die Raad en sy bedrywighede en die regte wat enige lid van die publiek kragtens hierdie Wet het. 10

Samestelling van Raad

7. Die Raad bestaan uit 'n maksimum van 22 lede wat deur die Minister op die voorgeskrewe wyse aangestel is, van wie— 15
- (a) een 'n tradisionele gesondheidspraktisyn moet wees wat as die voorsitter van die Raad deur die Minister aangestel word; 15
 - (b) een die ondervoorsitter van die Raad is en deur die lede van die Raad uit hulle geledere verkies word; 15
 - (c) nege tradisionele gesondheidspraktisyns moet wees, een uit elke provinsie, van wie elk vir minstens vyf jaar moes gepraktiseer het; 20
 - (d) een 'n werknemer in diens van die Departement van Gesondheid moet wees; 20
 - (e) een aangestel moet word uit hoofde van sy of haar regs kennis; 20
 - (f) een 'n geneesheer moet wees wat 'n lid van die Raad vir Gesondheidsberoep van Suid-Afrika is; 25
 - (g) een 'n apteker moet wees wat lid van die Suid-Afrikaanse Aptekersraad is; 25
 - (h) drie gemeenskapsverteenwoordigers moet wees; en 25
 - (i) een 'n verteenwoordiger van elke kategorie tradisionele gesondheidspraktisyns omskryf in hierdie Wet moet wees. 25

Ontruiming van amp en vul van vakatures 30

8. (1) 'n Lid van die Raad moet sy of haar amp ontruim indien—
- (a) hy of sy ophou om 'n Suid-Afrikaanse burger te wees; 35
 - (b) hy of sy gediagnoseer word met 'n geestesongesteldheid of 'n geestesgesondheidsorggebruiker ("*mental health care user*") word, soos omskryf in artikel 1 van die "Mental Health Care Act, 2002" (Wet No. 17 van 2002); 35
 - (c) hy of sy skuldig bevind is aan 'n misdryf en gevonnisd is tot gevangenisstraf sonder die keuse van 'n boete, hetsy sodanige vonnis opgeskort is al dan nie; 35
 - (d) hy of sy ingevolge enige reg gediskwalifiseer raak om as 'n tradisionele gesondheidspraktisyn te praktiseer; 35
 - (e) hy of sy ophou om oor die nodige kwalifikasie te beskik vir sy of haar aanwysing of aanstelling; 40
 - (f) hy of sy sy of haar bedanking skriftelik by die Minister indien; 40
 - (g) hy of sy van twee agtereenvolgende vergaderings van die Raad sonder verlof van die Raad afwesig was; 40
 - (h) sy of haar boedel gesekwestreer word of hy of sy met sy of haar skuldeisers 'n akkoord aangegaan het; 45
 - (i) hy of sy in so 'n mate gestremd raak dat hy of sy nie in staat is om sy of haar pligte as lid van die Raad uit te voer nie; 45
 - (j) die Minister in die openbare belang of op grond van wangedrag, onvermoë of onbevoegdheid sy of haar lidmaatskap beëindig; of 50
 - (k) die tydperk waarvoor die lid aangestel is, verstryk het en sy of haar aanstelling nie deur die Minister hernu word nie. 50
- (2) Indien 'n lid van die Raad sterf of sy of haar amp ontruim voor die verstryking van sy of haar ampstermyn, moet die Minister iemand anders aanstel om die vakature te vul vir die res van die ampstermyn waarvoor sodanige lid aangestel was. 55

Disqualification as member of Council

9. A person may not be appointed as a member of the Council if he or she—
- (a) is not a South African citizen;
 - (b) has been convicted of an offence in respect of which he or she was sentenced to imprisonment without the option of a fine; 5
 - (c) has been found guilty of unprofessional conduct under this Act;
 - (d) has been diagnosed as having a mental illness or is a mental health care user as defined in section 1 of the Mental Health Care Act, 2002 (Act No. 17 of 2002);
 - (e) is an unrehabilitated insolvent or has entered into a composition with his or her creditors; 10
 - (f) is disqualified in terms of any law, from practising as a traditional health practitioner; or
 - (g) is, at the time of his or her appointment, or was, during the preceding 12 months—
 - (i) a member of the National Assembly, any provincial legislative body, National Council of Provinces or any municipal council; or 15
 - (ii) an office bearer or employee of any party, organisation or body of a political nature.

Chairperson and vice-chairperson

10. (1) The chairperson and vice-chairperson hold office for the duration of the term of office for which they have been appointed by the Minister to the Council. 20
- (2) In the absence of the chairperson of the Council or if the chairperson is for any reason unable to act as chairperson, the vice-chairperson must perform the functions of the chairperson.
- (3) If both the chairperson and the vice-chairperson are absent from any meeting, the members present must elect one of their number to preside at that meeting and, until the chairperson or vice-chairperson resumes duty, to perform all the functions of the chairperson. 25
- (4) If the office of the chairperson becomes vacant, the Minister must appoint a person from among the remaining members of the Council, or any other person, in terms of section 7(a) and the person so appointed holds office for the unexpired portion of the period for which his or her predecessor was appointed. 30
- (5) If the office of the vice-chairperson becomes vacant, the members of the Council must, at the first meeting thereafter or as soon as it may be convenient, elect from among their number a new vice-chairperson and that member holds office for the unexpired portion of the period for which his or her predecessor was elected. 35
- (6) If a chairperson vacates his or her office without terminating his or her membership of the Council, the Minister must appoint a new chairperson from amongst the members of the Council.

Meetings of Council

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11. (1) The registrar must, in consultation with the chairperson, convene the meetings of the Council.
- (2) The Council must meet at least twice annually to conduct its business and hold such additional meetings as it may determine.
- (3) A special meeting of the Council— 45
- (a) may be convened by the chairperson at any time;
 - (b) must be convened by the chairperson at such place and on such date as he or she may determine within 30 days of receipt by him or her of a written request by the Minister or of a written request signed by at least six of the members: 50
- Provided that such written request must state clearly the purpose for which the meeting is to be convened.

Diskwalifisering as lid van Raad

9. 'n Persoon mag nie as 'n lid van die Raad aangestel word nie indien hy of sy—
- (a) nie 'n Suid-Afrikaanse burger is nie;
 - (b) skuldig bevind is aan 'n misdryf ten opsigte waarvan hy of sy gevonnissen is tot gevangenisstraf sonder die keuse van 'n boete; 5
 - (c) kragtens hierdie Wet skuldig bevind is aan onprofessionele gedrag;
 - (d) gediagnoseer is met 'n geestesongesteldheid of 'n geestesgesondheidsorggebruiker is soos omskryf in artikel 1 van die "Mental Health Care Act, 2002" (Wet No. 17 van 2002);
 - (e) 'n ongerehabiliteerde insolvent is of met sy of haar skuldeisers 'n akkoord aangegaan het; 10
 - (f) ingevolge enige reg gediskwalifiseer is om as 'n tradisionele gesondheidspraktisyn te praktiseer; of
 - (g) ten tyde van sy of haar aanstelling of gedurende die voorafgaande 12 maande— 15
 - (i) 'n lid van die Nasionale Vergadering, enige provinsiale wetgewende liggaam, die Nasionale Raad van Provinsies of enige munisipale raad is of was; of
 - (ii) 'n ampsdraer of werknemer van enige party, organisasie of liggaam van politieke aard is of was. 20

Voorsitter en ondervoorsitter

10. (1) Die voorsitter en ondervoorsitter beklee hulle ampte vir die duur van die ampstermyn waarvoor hulle deur die Minister in die Raad aangestel is.
- (2) In die afwesigheid van die voorsitter van die Raad of indien die voorsitter om enige rede nie as voorsitter kan optree nie, moet die ondervoorsitter die werksaamhede van die voorsitter verrig. 25
- (3) Indien die voorsitter sowel as die ondervoorsitter van enige vergadering afwesig is, moet die lede wat aanwesig is een uit hulle geledere verkies om by daardie vergadering voor te sit en om, totdat die voorsitter of ondervoorsitter hulle plig hervat, al die werksaamhede van die voorsitter te verrig. 30
- (4) Indien die amp van die voorsitter vakant raak, moet die Minister 'n persoon uit die geledere van die oorblywende lede van die Raad, of enige ander persoon, ingevolge artikel 7(a) aanstel en die persoon aldus aangestel, beklee die amp vir die onverstreke gedeelte van die tydperk waarvoor sy of haar voorganger aangestel was.
- (5) Indien die amp van die ondervoorsitter vakant raak, moet die lede van die Raad by die eerste vergadering daarna of so gou dit gerieflik is, uit hulle geledere 'n nuwe ondervoorsitter verkies en daardie lid beklee die amp vir die onverstreke gedeelte van die tydperk waarvoor sy of haar voorganger verkies was. 35
- (6) Indien 'n voorsitter sy of haar amp ontruim sonder om sy of haar lidmaatskap van die Raad te beëindig, moet die Minister 'n nuwe voorsitter uit die geledere van die Raad aanstel. 40

Vergaderings van Raad

11. (1) Die registrateur moet in oorleg met die voorsitter die vergaderings van die Raad belê.
- (2) Die Raad moet minstens twee maal jaarliks vergader om sy werksaamhede te verrig en die bykomende vergaderings hou wat hy bepaal. 45
- (3) 'n Spesiale vergadering van die Raad—
- (a) kan te eniger tyd deur die voorsitter byeengeroep word;
 - (b) moet binne 30 dae na die ontvangs deur hom of haar van 'n skriftelike versoek deur die Minister of van 'n skriftelike versoek onderteken deur minstens ses lede, deur die voorsitter byeengeroep word op die plek en die datum wat hy of sy bepaal: Met dien verstande dat sodanige skriftelike versoek die doel waarvoor die vergadering byeengeroep word, duidelik moet stel. 50

Quorum and procedure at meeting

12. (1) A quorum for any meeting of the Council is 12 persons.
- (2) Subject to subsection (6), each member has one vote on a question before the Council.
- (3) Any decision by the Council must be taken by a majority vote at a meeting of the Council at which a quorum is present. 5
- (4) Notwithstanding anything to the contrary in this Act, the majority of members of the Council or any of its committees, is one half of the total number of the members present plus one.
- (5) Only members of the Council have voting rights. 10
- (6) A decision by the majority of the members of the Council present at any meeting constitutes the decision of the Council: Provided that in the event of an equality of votes, the member presiding has a casting vote in addition to a deliberative vote.
- (7) A decision taken by the Council or an act performed under the authority of the Council is not invalid merely by reason of— 15
- (a) an interim vacancy in the Council: or
- (b) the fact that a person who is not entitled to sit as a member of the Council, sat as a member at the time when the decision was taken or the act was authorised by the required majority of members present at the time and entitled to sit as members. 20

Executive committee of Council

13. (1) There is an executive committee of the Council consisting of not more than eight members, being—
- (a) the chairperson;
- (b) the vice-chairperson; 25
- (c) three members appointed in terms of section 7(c);
- (d) a member appointed in terms of section 7(d);
- (e) a member appointed in terms of section 7(e); and
- (f) a member appointed in terms of section 7(g).
- (2) The three members of the executive committee, contemplated in paragraph (c) of subsection (1) must be elected by the members of the Council. 30

Other committees of Council

14. (1) Subject to subsection (3), the Council may establish such other committees, including disciplinary committees, as it considers necessary, consisting of such a number of persons as the Council may determine, including at least one member of the Council who must be the chairperson of such committee. 35
- (2) The Council may, subject to subsection (3), delegate to any committee contemplated in subsection (1), or to any member of that committee, such of its powers as it may from time to time determine, but the Council is not divested of any power so delegated. 40
- (3) Notwithstanding subsection (1), the Council may establish *ad hoc* disciplinary appeal committees consisting of—
- (a) as chairperson, either a retired judge, a retired senior magistrate or an attorney with a minimum of 10 years of experience;
- (b) not more than two registered traditional health practitioners; and 45
- (c) a member of the Council appointed under section 7(h).
- (4) A disciplinary appeal committee contemplated in subsection (3) has the power to vary, confirm or set aside a finding of a disciplinary committee established under subsection (1) or to refer the matter back to the relevant disciplinary committee with such instructions as it thinks fit. 50
- (5) A decision by a disciplinary committee, unless appealed against, is of force and effect from the date determined by that committee.
- (6) Where a matter has been considered by a disciplinary appeal committee, the decision of the disciplinary appeal committee, unless appealed against in a court of law, is of force and effect from the date determined by that committee. 55

Kworum en vergaderingsprosedure

12. (1) 'n Kworum vir enige vergadering van die Raad is 12 persone.
- (2) Behoudens subartikel (6) het elke lid een stem oor 'n vraag voor die Raad.
- (3) Enige beslissing deur die Raad moet geneem word deur 'n meerderheidstem op 'n vergadering van die Raad waar 'n kworum aanwesig is. 5
- (4) Ondanks enigiets strydigs in hierdie Wet is die meerderheid lede in die Raad of enige van sy komitees een helfte van die totale getal lede aanwesig, plus een.
- (5) Slegs lede van die Raad het stemreg.
- (6) 'n Beslissing deur die meerderheid lede van die Raad aanwesig by enige vergadering maak die beslissing van die Raad uit: Met dien verstande dat, in die geval van 'n staking van stemme, die voorsittende lid 'n beslissende stem het, benewens 'n beraadslagende stem. 10
- (7) 'n Besluit deur die Raad geneem of handeling op gesag van die Raad uitgevoer, is nie ongeldig nie slegs op grond van—
- (a) 'n tussentydse vakature in die Raad; of 15
- (b) die feit dat 'n persoon wat nie daarop geregtig is om as 'n lid van die Raad te sit nie, as lid gesit het toe die besluit geneem is of die handeling gemagtig is deur die vereiste meerderheid lede aanwesig op daardie tydstip en geregtig om as lede te sit.

Uitvoerende komitee van Raad 20

13. (1) Daar is 'n uitvoerende komitee van die Raad wat bestaan uit hoogstens agt lede, naamlik—
- (a) die voorsitter;
- (b) die ondervoorsitter;
- (c) drie lede aangestel ingevolge artikel 7(c); 25
- (d) 'n lid aangestel ingevolge artikel 7(d);
- (e) 'n lid aangestel ingevolge artikel 7(e); en
- (f) 'n lid aangestel ingevolge artikel 7(g).
- (2) Die drie lede van die uitvoerende komitee beoog in paragraaf (c) van subartikel (1) moet deur die lede van die Raad verkies word. 30

Ander komitees van Raad

14. (1) Behoudens subartikel (3) kan die Raad die ander komitees, met inbegrip van tugkomitees, instel wat hy nodig ag, bestaande uit die getal persone wat die Raad bepaal, met inbegrip van minstens een lid van die Raad wat die voorsitter van sodanige komitee moet wees. 35
- (2) Die Raad kan, behoudens subartikel (3), aan enige komitee beoog in subartikel (1), of aan enige lid van daardie komitee, die bevoegdheid van die Raad delegeer wat die Raad van tyd tot tyd bepaal, maar die Raad word nie ontdoen van enige bevoegdheid aldus gedelegeer nie.
- (3) Ondanks subartikel (1) kan die Raad *ad hoc*- appèltugkomitees instel wat bestaan uit— 40
- (a) as voorsitter, 'n afgetrede regter, 'n afgetrede senior landdros of 'n prokureur met minstens 10 jaar ondervinding;
- (b) hoogstens twee geregistreerde tradisionele gesondheidsorgpraktisyns; en
- (c) 'n lid van die Raad kragtens artikel 7(h) aangestel. 45
- (4) 'n Appèltugkomitee in subartikel (3) beoog, het die bevoegdheid om 'n bevinding van 'n tugkomitee ingestel kragtens subartikel (1) te wysig, te bevestig of tersyde te stel of om die aangeleentheid na die tersaaklike tugkomitee terug te verwys met die lasgewings wat hy nodig ag.
- (5) 'n Beslissing deur 'n tugkomitee, tensy daarteen geappelleer word, is van krag vanaf die datum deur daardie tugkomitee bepaal. 50
- (6) Waar 'n aangeleentheid deur 'n appèltugkomitee oorweeg is, is die beslissing van die appèltugkomitee, tensy daarteen in 'n geregshof geappelleer word, van krag vanaf die datum deur daardie komitee bepaal.

Remuneration of members of Council and committees

15. The members of the Council and members of the committees of the Council must be paid the remuneration and allowances determined by the Minister, in consultation with the Minister of Finance.

Funds of Council 5

16. (1) The funds of the Council consist of—
- (a) money appropriated by Parliament;
 - (b) fees raised by the registrar in the performance of his or her functions under this Act;
 - (c) penalties contemplated in sections 34, 38 and 43; and 10
 - (d) any other fees contemplated in this Act.

(2) The Council must utilise its funds to defray expenses incurred by the Council and the office of the registrar in the performance of their functions.

(3) The Council must, with the concurrence of the Minister and the Minister of Finance, open an account with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990), and deposit therein all money received under subsection (1). 15

(4) The Council may, with the approval of the Minister and the Minister of Finance, invest any money deposited under subsection (3), which is not required for immediate use, with an approved institution.

(5) Any surplus which at the close of the Council's financial year stands to the credit of the Council must be carried forward to the next financial year as a credit in the account of the Council. 20

(6) The Council may establish and operate a reserve fund and deposit therein such amounts as it considers necessary or expedient.

Accounting officer 25

17. The registrar is the accounting officer of the Council and must ensure that—
- (a) proper records of all financial transactions, assets and liabilities of the Council and the registrar are kept;
 - (b) as soon as is practicable, but not later than four months after the end of each financial year, annual financial statements in respect of the financial year in question are prepared and submitted to the Council and the Minister for approval; 30
 - (c) the financial affairs of the Council and the office of the registrar comply with the Public Finance Management Act, 1999 (Act No. 1 of 1999).

CHAPTER 3 35**REGISTRAR, STAFF OF REGISTRAR AND REGISTRATION PROCEDURES****Appointment of registrar**

18. (1) The Minister, after consultation with the Council—
- (a) must appoint a registrar; and
 - (b) may dismiss such person. 40

(2) The appointment of the registrar is subject to the conclusion of a written performance agreement entered into by the Minister and that person.

Functions of registrar

19. (1) The registrar—
- (a) is the secretary and accounting officer of the Council; 45
 - (b) must perform the functions assigned to him or her in terms of this Act by the Council;
 - (c) must keep registers—
 - (i) in which he or she enters the names of traditional health practitioners and students; 50

Vergoeding van lede van Raad en komitees

15. Die lede van die Raad en lede van die komitees van die Raad moet die vergoeding en toelaes betaal word wat deur die Minister in oorleg met die Minister van Finansies bepaal word.

Fondse van Raad

5

16. (1) Die fondse van die Raad bestaan uit—

- (a) geld deur die Parlement bewillig;
- (b) gelde deur die registrateur verkry in die verrigting van sy of haar werksaamhede kragtens hierdie Wet;
- (c) strawwe beoog in artikels 34, 38 en 43; en 10
- (d) enige ander gelde beoog in hierdie Wet.

(2) Die Raad moet sy fondse gebruik ter bestryding van uitgawes deur die Raad en die kantoor van die registrateur aangegaan in die verrigting van hulle werksaamhede.

(3) Die Raad moet, met die instemming van die Minister en die Minister van Finansies, 'n rekening open by 'n instelling geregistreer as 'n bank ingevolge die Bankwet, 1990 (Wet No. 94 van 1990), en moet alle gelde kragtens subartikel (1) ontvang, daarin deponeer. 15

(4) Die Raad kan, met die goedkeuring van die Minister en die Minister van Finansies, enige geld wat kragtens subartikel (3) gedeponeer is en wat nie vir onmiddellike gebruik verlang word nie, by 'n goedgekeurde instelling belê. 20

(5) Enige surplus wat by die sluiting van die Raad se boekjaar vir die krediet van die Raad staan, moet as 'n krediet op die rekening van die Raad na die volgende boekjaar oorgedra word.

(6) Die Raad kan 'n reserwefondse instel en bedryf en die bedrae daarop inbetaal wat hy nodig of dienstig ag. 25

Rekenpligtige beampte

17. Die registrateur is die rekenpligtige beampte van die Raad en moet verseker dat—

- (a) behoorlike rekords van alle finansiële transaksies, bates en laste van die Raad en die registrateur gehou word;
- (b) daar so gou doenlik, maar nie later nie as vier maande na die einde van elke 30 boekjaar, finansiële jaarstate ten opsigte van die betrokke boekjaar opgestel word en vir goedkeuring aan die Raad en die Minister voorgelê word;
- (c) die finansiële sake van die Raad en die kantoor van die registrateur voldoen aan die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

HOOFSTUK 3

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REGISTRATEUR, PERSONEEL VAN REGISTRATEUR EN REGISTRASIEPROSEDURES**Aanstelling van registrateur**

18. (1) Die Minister, na oorleg met die Raad—

- (a) moet 'n registrateur aanstel; en 40
- (b) kan sodanige persoon ontslaan.

(2) Die aanstelling van die registrateur is onderworpe aan die sluit van 'n skriftelike prestasie-ooreenkoms aangegaan tussen die Minister en daardie persoon.

Werksaamhede van registrateur

19. (1) Die registrateur—

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- (a) is die sekretaris en rekenpligtige beampte van die Raad;
- (b) moet die werksaamhede verrig wat ingevolge hierdie Wet deur die Raad aan hom of haar toegewys is;
- (c) moet registers hou—
 - (i) waarin hy of sy die name van tradisionele gesondheidspraktisyns en 50 studente aanteken;

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- (ii) in which he or she on instruction of the Council, enters the name, physical address, qualifications, date of initial registration and any other particulars, determined by the Council, including the category or speciality of the person so registered;
 - (iii) from which he or she must remove the names of deceased registered persons or other persons whose names must be removed in the prescribed manner; 5
 - (iv) in which he or she must update, from time to time, the relevant particulars of the person so registered.
- (2) (a) The registrar may, in writing, and on such conditions as he or she determines, delegate or assign any power or duty to any staff member, unless the Minister prohibits a specific delegation or assignment. 10
- (b) A delegation or assignment made under paragraph (a) does not—
- (i) divest the registrar of the responsibility or accountability concerning the performance of the function involved; 15
 - (ii) prohibit the performance of the function involved by the registrar.
- (c) A delegation or assignment made under paragraph (a) may be withdrawn, but such withdrawal does not affect any right which may have accrued to a person as a result of the function performed before the delegation or assignment was withdrawn.

Staff of registrar 20

20. (1) Subject to the written instructions of the Council, the registrar may appoint such members of staff as are necessary to perform the work arising from or connected with the Council's functions.
- (2) The terms and conditions of service of staff of the registrar are determined by the Council and approved by the Minister, in consultation with the Minister of Finance. 25
- (3) The Council may, with the approval of the Minister, in consultation with the Minister of Finance, establish, manage and administer any pension fund for the benefit of the staff of the registrar.

Application for registration to practise

21. (1) No person may practise as a traditional health practitioner within the Republic unless he or she is registered in terms of this Act. 30
- (2)(a) Any person who wishes to register as a traditional health practitioner or a student must apply to the registrar.
- (b) An application contemplated in paragraph (a) must be accompanied by— 35
- (i) proof that the applicant is a South African citizen;
 - (ii) character references by people not related to the applicant;
 - (iii) proof of the applicant's qualifications;
 - (iv) the prescribed registration fee; and
 - (v) any further information relating to the application that the Council may consider necessary. 40
- (3) If the registrar is satisfied that the information and documentation submitted in support of an application for registration meet the requirements of this Act and upon receipt of the prescribed registration fee, the registrar must issue a registration certificate authorising the applicant to practise as a traditional health practitioner within the Republic. 45
- (4) If the registrar is not satisfied that the information and documentation submitted in support of an application for registration meet the requirements of this Act, he or she may refuse to issue a registration certificate to the applicant, but must, if so required by the applicant, submit the application to the Council for a decision.
- (5) The registrar must only register a traditional health practitioner if the registrar is satisfied that the person applying for registration is suitably qualified to be a traditional health practitioner or if the Council is so satisfied. 50

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- (ii) waarin hy of sy in opdrag van die Raad 'n inskrywing maak van die naam, fisiese adres, kwalifikasies, datum van aanvanklike registrasie en enige ander besonderhede wat die Raad bepaal, met inbegrip van die kategorie of spesialiteit van die persoon aldus geregistreer;
- (iii) waaruit hy of sy op voorgeskrewe wyse die name van afgestorwe geregistreeerde persone of ander persone wie se name geskrap moet word, verwyder; 5
- (iv) waarin hy of sy van tyd tot tyd die tersaaklike besonderhede van die persoon aldus geregistreer, moet bywerk.
- (2) (a) Die registrateur kan skriftelik en op die voorwaardes wat hy of sy bepaal, aan enige personeel enige bevoegdheid of plig deleger of toewys, tensy die Minister 'n spesifieke delegering of toewysing verbied. 10
- (b) 'n Delegering of toewysing kragtens paragraaf (a) gedoen—
- (i) ontdoen nie die registrateur van die verantwoordelikheid of verantwoordingspligtigheid rakende die verrigting van die betrokke werksaamheid nie; 15
- (ii) verbied nie die verrigting van die betrokke werksaamheid deur die registrateur nie.
- (c) 'n Delegering of toewysing gedoen kragtens paragraaf (a) kan teruggetrek word, maar sodanige terugtrekking raak geen reg wat 'n persoon toegeval het as gevolg van die werksaamheid verrig voordat die delegering of toewysing teruggetrek is nie. 20

Personeel van registrateur

20. (1) Behoudens die skriftelike opdragte van die Raad kan die registrateur die personeellede aanstel wat nodig is om die werk te verrig wat spruit uit of in verband staan met die Raad se werksaamhede. 25
- (2) Die diensbedinge en -voorwaardes van personeel van die registrateur word deur die Raad bepaal en deur die Minister goedgekeur in oorleg met die Minister van Finansies.
- (3) Die Raad kan, met die goedkeuring van die Minister in oorleg met die Minister van Finansies, enige pensioenfonds tot voordeel van die personeel van die registrateur stig, bestuur en administreer. 30

Aansoek om registrasie om te praktiseer

21. (1) Geen persoon mag as 'n tradisionele gesondheidspraktisyn binne die Republiek praktiseer tensy hy of sy ingevolge hierdie Wet geregistreer is nie.
- (2) (a) Enige persoon wat as 'n tradisionele gesondheidspraktisyn of 'n student wil registreer, moet by die registrateur aansoek doen. 35
- (b) 'n Aansoek beoog in paragraaf (a) moet vergesel gaan van—
- (i) bewys dat die aansoeker 'n Suid-Afrikaanse burger is;
- (ii) karaktergetuigskrifte deur mense nie verwant aan die aansoeker nie;
- (iii) bewys van die aansoeker se kwalifikasies; 40
- (iv) die voorgeskrewe registrasiegeld; en
- (v) enige verdere inligting betreffende die aansoek wat deur die Raad nodig geag word.
- (3) Indien die registrateur oortuig is dat die inligting en dokumentasie voorgelê ter ondersteuning van 'n aansoek om registrasie aan die vereistes van hierdie Wet voldoen, moet die registrateur by ontvangs van die voorgeskrewe registrasiegeld 'n registrasiesertifikaat uitreik wat die aansoeker magtig om as tradisionele gesondheidspraktisyn binne die Republiek te praktiseer. 45
- (4) Indien die registrateur nie oortuig is dat die inligting en dokumentasie voorgelê ter ondersteuning van 'n aansoek om registrasie aan die vereistes van hierdie Wet voldoen nie, kan hy of sy weier om 'n registrasiesertifikaat aan die aansoeker uit te reik, maar moet, indien aldus deur die aansoeker vereis, die aansoek vir 'n beslissing aan die Raad voorlê. 50
- (5) Die registrateur moet 'n tradisionele gesondheidspraktisyn slegs registreer indien die registrateur oortuig is dat die persoon wat om registrasie aansoek doen, paslik gekwalifiseer is om 'n tradisionele gesondheidspraktisyn te wees of indien die Raad aldus oortuig is. 55

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(6) Any entry which is proved to the satisfaction of the Council to have been made in error or through misrepresentation or in circumstances not authorised by this Act must be removed from the register and—

- (a) a record of the reason for every such removal must be made in the register;
- (b) the person in respect of whom such removal has been made must be notified thereof in the manner contemplated in section 23(2); and 5
- (c) any certificate issued in respect of such registration is deemed to have been cancelled as from the date on which notice has so been given.

Qualifications for registration

22. (1) The Minister may, on the recommendation of the Council, prescribe the minimum qualifications to be obtained by virtue of examinations conducted by an accredited institution, educational authority or other examining authority in the Republic. 10

(2) Any qualification contemplated in subsection (1), obtained on its own or conjointly with any other qualification, entitles a holder thereof to registration in terms of this Act if he or she has, before or in connection with or after the acquisition of the qualification in question, complied with the prescribed conditions or requirements. 15

Removal from and restoration of name to register

23. (1) The registrar must, on instruction from the Council, remove from the relevant register the name of any person— 20

- (a) who has died;
- (b) who has ceased to be a citizen of the Republic and has permanently left the Republic;
- (c) who has been absent from the Republic for a continuous period of more than three years; 25
- (d) who has failed to pay any relevant prescribed fee;
- (e) who has failed to notify the registrar of any change in residential or postal address or the address of his or her practice within six months after any such change;
- (f) who has requested that his or her name be removed from the register, in which case such practitioner may be required to lodge with the registrar an affidavit or affirmation to the effect that no disciplinary or criminal proceedings are pending or are likely to be instituted against him or her; 30
- (g) who has been found guilty of improper or disgraceful conduct in terms of this Act; 35
- (h) whose name has been removed from the register, record or roll of any education and training institution or other body from which he or she received the qualification by virtue of which he or she was registered;
- (i) who has been registered through error or fraud;
- (j) who has failed to furnish the registrar, within a period to be determined by the Council, with such information as the registrar may require under this Act; 40
- (k) whose registration is proved to the satisfaction of the Council to have been made in error or through fraudulent misrepresentation or concealment of material facts or information or in circumstances not authorised by this Act; or
- (l) who, after an assessment was made in the manner contemplated in section 41, has been found to be mentally impaired. 45

(2) The registrar must give notice of the removal of a person's name from the register in terms of paragraph (b) up to and including paragraph (l) of subsection (1) by registered mail addressed to such person at the address of such person as it appears in the register. 50

(3) From the date on which the notice contemplated in subsection (2) was given—

- (a) any registration certificate issued under this Act to the person concerned is considered to have been cancelled; and

(6) Enige inskrywing waarvan daar tot tevredenheid van die Raad bewys is dat dit verkeerdlik gedoen is of deur wanvoorstelling of in omstandighede nie by hierdie Wet gemagtig nie, moet uit die register geskrap word en—

- (a) 'n inskrywing van die rede vir elke sodanige skraping moet in die register gedoen word; 5
- (b) die persoon ten opsigte van wie sodanige skraping gedoen is, moet daarvan in kennis gestel word op die wyse beoog in artikel 23(2); en
- (c) enige sertifikaat uitgereik ten opsigte van sodanige registrasie word geag ingetrek te wees vanaf die datum waarop kennis aldus gegee is.

Kwalifikasies vir registrasie 10

22. (1) Die Minister kan op aanbeveling van die Raad die minimum kwalifikasies voorskryf wat behaal moet word uit hoofde van eksamens afgeneem deur 'n geakkrediteerde instelling, onderwysowerheid of ander eksamineringsoowerheid in die Republiek.

(2) Enige kwalifikasie beoog in subartikel (1), alleen of saam met 'n ander kwalifikasie behaal, maak die houer daarvan geregtig op registrasie ingevolge hierdie Wet indien hy of sy voor of in verband met of na die behaling van die betrokke kwalifikasie aan die voorgeskrewe voorwaardes of vereistes voldoen het. 15

Skrapping uit en herstel van naam in register

23. (1) Die registrateur moet in opdrag van die Raad uit die tersaaklike register die naam skrap van enige persoon— 20

- (a) wat gesterf het;
- (b) wat opgehou het om 'n burger van die Republiek te wees en die Republiek permanent verlaat het;
- (c) wat vir 'n aaneenlopende tydperk van langer as drie jaar uit die Republiek afwesig was; 25
- (d) wat versuim het om enige tersaaklike voorgeskrewe geld te betaal;
- (e) wat versuim het om die registrateur binne ses maande na enige sodanige verandering in kennis te stel van enige verandering in woon- of posadres of van die adres van sy of haar praktyk; 30
- (f) wat versoek het dat sy of haar naam uit die register verwyder word, in welk geval daar van sodanige praktisyn vereis kan word om 'n beëdigde verklaring of bevestiging by die registrateur in te dien ten effekte dat geen tug- of strafregtelike verrigtinge teen hom of haar hangende is of waarskynlik ingestel gaan word nie; 35
- (g) wat ingevolge hierdie Wet skuldig bevind is aan onbetaamlike of skandelige gedrag;
- (h) wie se naam verwyder is uit die register of rekord of van die rol van enige onderwys- en opleidingsinstelling of ander liggaam waarby hy of sy die kwalifikasie ontvang het uit hoofde waarvan hy of sy geregistreer is; 40
- (i) wat foutiewelik of deur bedrog geregistreer is;
- (j) wat versuim het om die registrateur binne 'n tydperk deur die Raad bepaal, te voorsien van die inligting wat die registrateur kragtens hierdie Wet verlang;
- (k) wie se registrasie tot tevredenheid van die Raad bewys is as foutiewelik of deur bedrogwanvoorstelling of verswyging van wesenlike feite of inligting of in omstandighede nie by hierdie Wet gemagtig nie, gedoen te gewees het; of 45
- (l) wat, nadat 'n evaluering gedoen is op die wyse beoog in artikel 41, bevind is geestesgestremd te wees.

(2) Die registrateur moet ingevolge paragraaf (b) tot en met (l) van subartikel (1) kennis gee van die skraping van 'n persoon se naam uit die register per geregistreerde pos geadresseer aan sodanige persoon by die adres van sodanige persoon soos dit in die register voorkom. 50

(3) Vanaf die datum waarop die kennisgewing beoog in subartikel (2) gegee is—

- (a) word enige registrasiesertifikaat kragtens hierdie Wet aan die betrokke persoon uitgereik, geag ingetrek te wees; en 55

- (b) a person whose name has been removed from the register must cease to practise as a traditional health practitioner and is precluded from performing any act which he or she, in his or her capacity as a registered person, was entitled to perform,
until such time as his or her name is restored to the register. 5
- (4) The registrar must restore the name of a person whose name has in terms of this section been removed from the register if the person concerned—
- (a) applies on the prescribed form for restoration of his or her name to the registrar;
- (b) pays the prescribed fee, if any; 10
- (c) complies with such other requirements as the Council may, from time to time, determine; and
- (d) is otherwise eligible for registration.

Issue of duplicate registration certificate, certificate of status and extract from register or certificate 15

24. (1) The registrar may, on application by a registered traditional health practitioner, issue a duplicate certificate of registration if the applicant—
- (a) provides proof of his or her identity to the satisfaction of the registrar;
- (b) provides an affidavit in which he or she confirms that the certificate of registration has been lost or destroyed; and 20
- (c) pays the prescribed fee determined by the Council.
- (2) The registrar may, upon payment of the prescribed fee, issue to any registered person a certificate of status containing—
- (a) particulars of such person's registration; and
- (b) a statement to the effect that— 25
- (i) the said person is not disqualified from practising his or her occupation; and
- (ii) no disciplinary steps are pending against him or her in terms of this Act.
- (3) The registrar may issue a certified extract from the register or a certificate contemplated in subsection (2) under his or her hand to any person upon payment of the prescribed fee. 30
- (4) A certificate may be issued subject to certain conditions imposed by the Council and such conditions must be indicated on the certificate.

Custody and publication of registers

25. The registers must be kept at the office of the registrar, and the Council may, at intervals determined by it, cause to be printed and published copies of the registers or supplementary lists showing additions, removals, amendments or revisions effected since the last publication of such copies of the complete registers. 35

Register as proof

26. (1) A copy of the most recent published issue of a register or any supplementary list contemplated in section 25, and certified by the registrar, is *prima facie* proof in all legal proceedings of the facts therein recorded and the absence of the name of any person from such copy is proof, unless there is credible evidence to the contrary, that such person is not registered in terms of this Act. 40
- (2) For the purposes of subsection (1) a certified extract or a certificate contemplated in section 24(3) bearing a date subsequent to the date of publication of the register or supplementary list contemplated in subsection (1) is "credible evidence to the contrary". 45
- (3) If the registrar issues a certificate, dated later than the date of publication of the register or supplementary list contemplated in subsection (1), to the effect that a practitioner's name has been removed from the register since the date of publication of the register or supplementary list and has not been restored thereto, that certificate is proof, in the absence of credible evidence to the contrary, that such person is not registered in terms of the provisions of this Act. 50

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- (b) moet 'n persoon wie se naam uit die register verwyder is, ophou om as 'n tradisionele gesondheidspraktisyn te praktiseer en word hy of sy uitgesluit van die verrigting van enige handeling wat hy of sy, in sy of haar hoedanigheid as 'n geregistreerde persoon, geregtig was om uit te voer, 5
totdat sy of haar naam in die register herstel word.
- (4) Die registrateur moet die naam van 'n persoon wie se naam ingevolge hierdie artikel uit die register verwyder is, in die register herstel indien die betrokke persoon—
- (a) op die voorgeskrewe vorm om herstel van sy of haar naam by die registrateur aansoek doen;
 - (b) die voorgeskrewe geld, as daar is, betaal; 10
 - (c) aan die ander vereistes voldoen wat die Raad van tyd tot tyd bepaal; en
 - (d) andersins op registrasie geregtig is.

Uitreiking van duplikaatregistrasiesertifikaat, statussertifikaat en uittreksel uit register of sertifikaat

24. (1) Die registrateur kan by aansoek deur 'n geregistreerde tradisionele gesondheidspraktisyn, 'n duplikaatregistrasiesertifikaat uitreik indien die aansoeker— 15
- (a) bewys van sy of haar identiteit tot tevreedenheid van die registrateur lewer;
 - (b) 'n beëdigde verklaring aanbied waarin hy of sy bevestig dat die registrasiesertifikaat verlore geraak het of vernietig is; en
 - (c) die voorgeskrewe geld wat deur die Raad bepaal is, betaal. 20
- (2) Die registrateur kan by betaling van die voorgeskrewe geld aan enige geregistreerde persoon 'n sertifikaat van status uitreik wat—
- (a) besonderhede van sodanige persoon se registrasie bevat; en
 - (b) 'n verklaring bevat ten effekte dat— 25
 - (i) vermelde persoon nie gediskwalifiseer word om sy of haar beroep te beoefen nie; en
 - (ii) geen tugstappe ingevolge hierdie Wet teen hom of haar hangende is nie.
- (3) Die registrateur kan 'n gesertifiseerde uittreksel uit die register of 'n sertifikaat beoog in subartikel (2) aan enige persoon by betaling van die voorgeskrewe geld onder sy of haar hand uitreik. 30
- (4) 'n Sertifikaat kan uitgereik word onderworpe aan sekere voorwaardes opgelê deur die Raad en sodanige voorwaardes moet op die sertifikaat aangedui word.

Bewaring en publikasie van registers

25. Die registers moet by die kantoor van die registrateur gehou word en die Raad kan, met tussenposes deur hom bepaal, kopieë van die registers of aanvullende lys, wat byvoegings, skrapings, wysigings of hersienings toon wat sedert die laaste publikasie van sodanige kopieë van die volledige registers aangebring is, laat druk en publiseer. 35

Register as bewys

26. (1) 'n Kopie van die jongste gepubliseerde uitgawe van 'n register of enige aanvullende lys beoog in artikel 25, gesertifiseer deur die registrateur, is *prima facie*-bewys in alle regsverrigtinge van die feite daarin opgeteken en die afwesigheid van die naam van enige persoon op sodanige kopie is bewys daarvan, tensy daar geloofwaardige getuienis tot die teendeel is, dat sodanige persoon nie ingevolge hierdie Wet geregistreer is nie. 40
- (2) By die toepassing van subartikel (1) is 'n gesertifiseerde uittreksel of 'n sertifikaat beoog in artikel 24(3), wat 'n datum dra wat volg op die publikasiedatum van die register of aanvullende lys beoog in subartikel (1) "geloofwaardige getuienis tot die teendeel". 45
- (3) Indien die registrateur 'n sertifikaat uitreik wat dateer nie later nie as die publikasiedatum van die register of aanvullende lys beoog in subartikel (1) ten effekte dat 'n praktisyn se naam sedert die publikasiedatum van die register of aanvullende lys uit die register geskrap is en nie daarin herstel is nie, is daardie sertifikaat bewys, by ontstentenis van geloofwaardige getuienis tot die teendeel, dat sodanige persoon nie ingevolge die bepalings van hierdie Wet geregistreer is nie. 50

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(4) A certificate of registration is proof of registration for a period of one year after its date only and thereafter an annual practising certificate issued upon payment of the prescribed annual fee and upon the submission of such information as may be required by the Council to enable it to keep accurate statistics on human resources in the health field, is proof of registration in the absence of credible evidence to the contrary. 5

Right of appeal

27. (1) Any person who is aggrieved by a decision of the registrar may lodge an appeal to the Council within 30 days from date of that decision.

(2) Any person who is aggrieved by a decision of the Council may appeal to the appropriate High Court against such decision. 10

Conditions relating to continuing education

28. The Council may from time to time make rules which prescribe—

- (a) conditions relating to continuing education and training to be undergone by persons registered in terms of this Act in order to retain such registration;
- (b) the nature and extent of continuing education and training to be undergone by persons registered in terms of this Act; and 15
- (c) the criteria for recognition by the Council of continuing education and training courses and of education institutions offering such courses.

CHAPTER 4**DISCIPLINARY INQUIRIES AND INVESTIGATIONS BY COUNCIL 20****Laying of complaints**

29. (1) Any person may lay a complaint with the Council about the way in which he or she was treated by a registered health practitioner or student.

(2) In laying a complaint, the person contemplated in subsection (1) must follow the prescribed procedure. 25

Inquiries into charges of misconduct

30. (1) Notwithstanding anything to the contrary in this Act, the Council may institute an inquiry into any complaint, allegation or charge of unprofessional conduct against any person registered in terms of this Act and, on finding such person guilty of such conduct, to impose any of the penalties contemplated in section 34: Provided that in the case of a complaint, charge or allegation which forms or is likely to form the subject of a criminal case in a court of law, the Council may postpone the holding of an inquiry until such case has been concluded. 30

(2) If the Council is in doubt as to whether any inquiry should be held in connection with a complaint, charge or allegation, it may, in connection with the allegation, charge or complaint in question, consult with or seek further information from any person, including the person against whom the allegation, charge or complaint has been lodged. 35

Manner in which certain investigations may be instituted

31. (1) The registrar may, with the approval of the chairperson of the Council, appoint a member of the Council as the investigating officer for the purposes of this section. 40

(2) Notwithstanding subsection (1), the registrar may, with the approval of the chairperson of the Council and on such conditions as the Council determines, appoint any person who is not a member of the Council and not in the full-time employment of the Council as the investigating officer for a particular investigation or to assist the investigating officer contemplated in subsection (1) with a particular investigation. 45

(3) A person appointed in terms of subsection (2) has the same powers and duties regarding the investigation as the investigating officer contemplated in subsection (1).

(4) 'n Registrasiesertifikaat is bewys van registrasie vir 'n tydperk van slegs een jaar na sy datum en daarna is 'n jaarlikse praktiseringsertifikaat uitgereik by betaling van die voorgeskrewe jaargeld en by voorlegging van die inligting wat deur die Raad verlang word om juiste statistiek oor mensehulpbronne op gesondheidsgebied te kan hou, bewys van registrasie by ontstentenis van geloofwaardige getuienis tot die teendeel. 5

Reg op appèl

27. (1) Enige persoon wat deur 'n beslissing van die registrator verontreg word, kan binne 30 dae na die datum van daardie beslissing by die Raad appèl aanteken.

(2) Enige persoon wat deur 'n beslissing van die Raad verontreg word, kan teen sodanige beslissing na die toepaslike Hoë Hof appelleer. 10

Voorwaardes betreffende voortgesette onderwys

28. Die Raad kan van tyd tot tyd reëls uitvaardig wat—

(a) voorwaardes voorskryf betreffende voortgesette onderwys en opleiding wat deur persone geregistreer ingevolge hierdie Wet ondergaan moet word ten einde sodanige registrasie te behou; 15

(b) die aard en omvang voorskryf van voortgesette onderwys en opleiding wat deur persone geregistreer ingevolge hierdie Wet ondergaan moet word; en

(c) die kriteria voorskryf vir erkenning deur die Raad van voortgesette onderwys- en opleidingskursusse en van onderwysinstellings wat sodanige kursusse aanbied. 20

HOOFSTUK 4

TUGONDERSOEKE EN ONDERSOEKE DEUR RAAD

Indiening van klagtes

29. (1) Enige persoon kan 'n klagte by die Raad indien oor die wyse waarop hy of sy deur 'n geregistreerde gesondheidspraktisyn of student behandel is. 25

(2) Wanneer 'n klagte ingedien word, moet die persoon beoog in subartikel (1) die voorgeskrewe prosedure volg.

Ondersoeke na aanklagte van wangedrag

30. (1) Ondanks enigiets strydigs in hierdie Wet, kan die Raad ondersoek instel na enige klagte, bewering of aanklag van onprofessionele gedrag teen enige persoon geregistreer ingevolge hierdie Wet en, by skuldigbevinding van sodanige persoon aan sodanige gedrag, enige van die strawwe beoog in artikel 34 oplê: Met dien verstande dat, in die geval van 'n klagte, aanklag of bewering wat die onderwerp van 'n strafsak in 'n geregshof uitmaak of waarskynlik sal uitmaak, die Raad die hou van 'n ondersoek kan uitstel totdat sodanige saak afgehandel is. 30
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(2) Indien die Raad twyfel of enige ondersoek gehou moet word in verband met 'n klagte, aanklag of bewering, kan hy in verband met die betrokke bewering, aanklag of klagte, oorleg pleeg met of verdere inligting versoek van enige persoon, met inbegrip van die persoon teen wie die bewering, aanklag of klagte ingedien is.

Wyse waarop sekere ondersoeke ingestel kan word 40

31. (1) Die registrator kan met die goedkeuring van die voorsitter van die Raad 'n lid van die Raad as ondersoekbeampte by die toepassing van hierdie artikel aanstel.

(2) Ondanks subartikel (1) kan die registrator, met die goedkeuring van die voorsitter van die Raad en op die voorwaardes wat die Raad bepaal, 'n persoon wat nie 'n lid van die Raad en nie voltyds in diens van die Raad is nie, as ondersoekbeampte aanstel vir 'n bepaalde ondersoek of om die ondersoekbeampte beoog in subartikel (1) met 'n bepaalde ondersoek te help. 45

(3) 'n Persoon ingevolge subartikel (2) aangestel, het dieselfde bevoegdhede en pligte betreffende die ondersoek as die ondersoekbeampte beoog in subartikel (1).

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(4)(a) The registrar must issue to the person appointed under subsection (1) or (2), as the case may be, a certificate to the effect that he or she has so been appointed, and, in the case of a person appointed for, or to assist with, a particular investigation, that he or she has so been appointed for such investigation.

(b) The person so appointed must on demand produce such certificate. 5

(5) The registrar may institute an investigation—

(a) into an alleged contravention of, or failure to comply with, this Act:

(b) to determine if a specific provision of this Act applies to a particular registered person;

(c) into a charge, complaint or allegation of improper or disgraceful conduct by a registered person; or 10

(d) into the affairs or conduct of a registered person, if any person files a complaint with the registrar, supported by an affidavit setting out the allegations contained in such complaint.

Entering and search of premises, attachment and removal of documents 15

32. (1) An investigating officer contemplated in section 31(1) or (2) may, with the approval of the Council and without an entry or search warrant, enter and search any premises, other than a private dwelling, to carry out an investigation contemplated in section 31(5) if—

(a) a person who is competent to do so, consents to such entry, search or seizure; 20
or

(b) the investigating officer, on reasonable grounds, believes—

(i) that a warrant would be issued to him or her if he or she were to apply for that warrant; and

(ii) the delay in obtaining that warrant would defeat the purpose of the entry. 25

(2) An entry and search under this section must be executed by day, unless the execution thereof by night is justifiable and necessary.

(3) An investigating officer must identify himself or herself to any person concerned during entry or search.

(4) During the search of the premises, or at any other time, an investigating officer may— 30

(a) request any person found on the premises to immediately, or at a time and place determined by the investigating officer—

(i) produce any book, record, document or thing which relates to, or which on reasonable grounds is believed to relate to, the matter under investigation, and which is or was on the premises or in the possession or custody or under control of that person or his or her employee or agent; 35

(ii) furnish such explanations as may be required in respect of any such book, record, document or thing;

(b) request from any person who has or is suspected on reasonable grounds of having in his or her possession or custody or under his or her control any book, record, document or thing relating to the matter which is being investigated, to produce it immediately or at a time and place determined by the investigating officer, for examination of such book, record, document or thing, or to make extracts or copies from such book or document, and may further request that person to furnish such explanations as are required in respect of any entry in that book or document. 40
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(5) A person who carries out an investigation in terms of this section—

(a) must preserve secrecy in respect of any facts which come to his or her notice in the performance of his or her functions; and 50

(b) may not disclose any such fact to any person except to the registrar, or to the chairperson, or any other member of the Council, or to the public prosecutor concerned in the case of an offence in terms of this or any other Act, or by order of a court.

(6) Notwithstanding subsection (5), no personal particulars regarding a patient may be disclosed to any person except in terms of a court order or with the consent of the presiding officer at an inquiry contemplated in this Act. 55

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- (4) (a) Die registrateur moet aan die persoon aangestel kragtens subartikel (1) of (2), na gelang van die geval, 'n sertifikaat uitreik ten effekte dat hy of sy aldus aangestel is en, in die geval van 'n persoon aangestel vir of om te help met 'n bepaalde ondersoek, dat hy of sy aldus vir sodanige ondersoek aangestel is.
- (b) Die persoon aldus aangestel moet op aanvraag sodanige sertifikaat toon. 5
- (5) Die registrateur kan 'n ondersoek instel—
- (a) na 'n beweerde oortreding van, of versuim om te voldoen aan, hierdie Wet;
- (b) om vas te stel of 'n bepaalde bepaling van hierdie Wet op 'n bepaalde geregistreerde persoon van toepassing is;
- (c) na 'n aanklag, klagte of bewering van onbetaamlike of skandelijke gedrag deur 'n geregistreerde persoon; of 10
- (d) na die sake of gedrag van 'n geregistreerde persoon, indien enigiemand 'n klagte indien by die registrateur, ondersteun deur 'n beëdigde verklaring wat die bewerings vervat in sodanige klagte uiteensit.

Betreding en deursoeking van persele, beslaglegging op en verwydering van dokumente 15

32. (1) 'n Ondersoekbeampte beoog in artikel 31(1) of (2) kan, met die goedkeuring van die Raad en sonder 'n betredings- of visenteringslasbrief, enige ander perseel as 'n privaat woning betree of deursoek om 'n ondersoek beoog in artikel 31(5) uit te voer indien— 20
- (a) 'n persoon wat bevoeg is om dit te doen, tot so 'n betreding, deursoeking of beslaglegging instem; of
- (b) die ondersoekbeampte op redelike gronde glo dat—
- (i) 'n lasbrief aan hom of haar uitgereik sou word indien hy of sy om daardie lasbrief aansoek sou doen; en 25
- (ii) die vertraging in die verkryging van daardie lasbrief die doel van die betreding sou ondermyn.
- (2) 'n Betreding en deursoeking kragtens hierdie artikel moet bedags uitgevoer word, tensy die uitvoering daarvan snags regverdigbaar en noodsaaklik is.
- (3) 'n Ondersoekbeampte moet tydens betreding of deursoeking hom- of haarself aan enige betrokke persoon identifiseer. 30
- (4) Gedurende die deursoeking van die perseel, of te eniger ander tyd, kan 'n ondersoekbeampte—
- (a) enige persoon wat op die perseel aangetref word, versoek om onmiddellik, of op die tyd en plek deur die ondersoekbeampte bepaal— 35
- (i) enige boek, aantekening, dokument of voorwerp wat betrekking het op, of wat op redelike gronde vermoed word betrekking te hê op, die aangeleentheid wat ondersoek word en wat op die perseel of in die besit of bewaring of onder die beheer van daardie persoon of sy of haar werknemer of agent is of was, voor te lê; 40
- (ii) die verduidelikings te verstrek wat ten opsigte van enige sodanige boek, aantekening, dokument of voorwerp vereis word;
- (b) enige persoon wat enige boek, aantekening, dokument of voorwerp wat betrekking het op die aangeleentheid wat ondersoek word, in sy of haar besit of bewaring of onder sy of haar beheer het of op redelike gronde vermoed word te hê, versoek om dit voor te lê onmiddellik of op 'n tyd en plek deur die ondersoekbeampte bepaal, ten einde sodanige boek, aantekening, dokument of voorwerp te ondersoek of om uittreksels uit of kopieë van so 'n boek of dokument te maak, en kan daardie persoon verder versoek om die vereiste verduidelikings ten opsigte van enige inskrywing in daardie boek of dokument te verstrek; 50
- (5) 'n Persoon wat 'n ondersoek ingevolge hierdie artikel uitvoer—
- (a) moet geheimhouding bewaar ten opsigte van enige feite wat in die verrigting van sy of haar werksaamhede tot sy of haar kennis kom; en
- (b) mag geen sodanige feit aan enige persoon openbaar maak nie, uitgesonderd aan die registrateur, of aan die voorsitter of enige ander lid van die Raad, of aan die betrokke staatsaanklaer in die geval van 'n misdryf ingevolge hierdie of enige ander Wet, of op hofbevel. 55
- (6) Ondanks subartikel (5) mag geen persoonlike besonderhede betreffende 'n pasiënt aan enige persoon openbaar gemaak word nie behalwe op hofbevel of met die instemming van die voorsittende beampte by 'n ondersoek beoog in hierdie Wet. 60

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(7) The court order contemplated in subsection (6) must be **executed** as if it were a judgment in a civil case in a magistrate's court.

(8) Any person who—

(a) refuses or neglects to produce any book, record, document or thing to a person authorised under this section; 5

(b) hinders or obstructs the investigating officer in the exercise of his or her powers or in the performance of his or her duties;

(c) pretends that he or she is an investigating officer; or

(d) contravenes a provision of subsection (5) or (6),

is guilty of an offence and liable on conviction— 10

(i) in the case of a contravention contemplated in paragraph (a), (b) or (c), to a fine or to imprisonment for a period not exceeding six months or to both a fine and such imprisonment; or

(ii) in the case of a contravention contemplated in paragraph (d), to a fine or to imprisonment for a period not exceeding two years or to both a fine and such imprisonment. 15

(9) This section does not preclude any other authority that is otherwise authorised from instituting an investigation into any alleged contravention of, or failure to comply with, any provision of this Act.

Report by investigating officer 20

33. (1) The investigating officer responsible for an investigation under this Act must compile a report of the investigation and submit that report to the registrar.

(2) If the report contemplated in subsection (1) reveals evidence of improper or disgraceful conduct contemplated in this Act and no complaint, charge or allegation regarding such conduct has been made for the purpose of an inquiry in terms of section 30, such report is deemed to be a complaint made for the purpose of an inquiry and the registrar must serve a copy thereof on the registered person concerned. 25

(3) If the report contemplated in subsection (1) reveals evidence which, in the opinion of the chairperson of the Council, makes it desirable that an inquiry on the grounds of an **apparent impairment** of the complainant's rights be instituted, the registrar must serve a copy thereof on the registered person concerned. 30

(4) If the report contemplated in subsection (1) **does not** reveal evidence of unprofessional conduct contemplated in this Act, the registrar must serve a copy thereof on the registered person concerned.

(5) To the extent that the report contemplated in subsection (1) contains statements of witnesses which would have been admissible as evidence at an inquiry into impairment of rights or into complaints, charges or allegations of unprofessional conduct, section 213 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), applies with the necessary changes in respect of those statements at such an inquiry. 35

Procedure at inquiry and relevant matters 40

34. (1) A person registered under this Act who, after an inquiry held by the Council, is found guilty of improper or disgraceful conduct, or conduct which, when regard is had to such person's profession, is improper or disgraceful, is liable to one or more of the following penalties:

(a) A caution or a reprimand or both; 45

(b) suspension for a specified period from practising or performing acts pertaining to his or her profession;

(c) removal of his or her name from the register;

(d) a prescribed fine;

(e) a period of compulsory community service determined by the Council; 50

(f) the payment of the costs of the proceedings; or

(g) restitution of any money paid by the complainant to the registered practitioner.

(2) If an appeal is lodged against a penalty of removal of a registered practitioner's name from the register or suspension from practice, such penalty remains effective until the appeal is heard. 55

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(7) Die hofbevel beoog in subartikel (6) word ten uitvoer gelê asof dit 'n vonnis in 'n siviele geding in 'n landdroshof was.

(8) Enige persoon wat—

(a) weier of nalaat om enige boek, aantekening, dokument of voorwerp voor te lê aan 'n persoon kragtens hierdie artikel gemagtig; 5

(b) die ondersoekbeampte by die uitoefening van sy of haar bevoegdheid of die uitvoering van sy of haar pligte hinder of dwarsboom;

(c) voorgee dat hy of sy 'n ondersoekbeampte is; of

(d) 'n bepaling van subartikel (5) of (6) oortree,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar— 10

(i) in die geval van 'n oortreding beoog in paragraaf (a), (b) of (c), met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met beide 'n boete en sodanige gevangenisstraf; of

(ii) in die geval van 'n oortreding beoog in paragraaf (d), met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met beide 'n boete en sodanige gevangenisstraf. 15

(9) Hierdie artikel verhinder nie enige ander gesag wat andersins gemagtig is, om ondersoek in te stel na enige beweerde oortreding van, of versuim om te voldoen aan, enige bepaling van hierdie Wet nie.

Verslag deur ondersoekbeampte 20

33. (1) Die ondersoekbeampte verantwoordelik vir 'n ondersoek kragtens hierdie Wet moet 'n verslag van die ondersoek saamstel en daardie verslag aan die registrateur voorlê.

(2) Indien die verslag beoog in subartikel (1) bewys van onbetaamlike of skandelijke gedrag beoog in hierdie Wet aan die lig bring en geen klagte, aanklag of bewering betreffende sodanige gedrag gemaak is vir die doel van 'n ondersoek ingevolge artikel 30 nie, word sodanige verslag geag te wees 'n klagte gemaak vir die doel van 'n ondersoek en moet die registrateur 'n afskrif daarvan aan die betrokke geregistreerde persoon bestel. 25

(3) Indien die verslag beoog in subartikel (1) bewyse aan die lig bring wat dit na die mening van die voorsitter van die Raad wenslik maak dat 'n ondersoek op grond van 'n oogluikende aantasting van die klaer se regte ingestel word, moet die registrateur 'n afskrif daarvan aan die betrokke geregistreerde persoon bestel. 30

(4) Indien die verslag beoog in subartikel (1) nie onprofessionele gedrag beoog in hierdie Wet aan die lig bring nie, moet die registrateur 'n afskrif daarvan aan die betrokke geregistreerde persoon bestel. 35

(5) In die mate wat die verslag beoog in subartikel (1) verklarings van getuies bevat wat as getuies toelaatbaar sou wees by 'n ondersoek na die aantasting van regte of na klagtes, aanklagte of bewerings van onprofessionele gedrag, is artikel 213 van die Strafproseswet, 1977 (Wet No. 51 van 1977), met die nodige veranderings ten opsigte van daardie verklarings by sodanige ondersoek van toepassing. 40

Prosedure by ondersoek en tersaaklike aangeleentheid

34. (1) 'n Persoon wat kragtens hierdie Wet geregistreer is en wat na 'n ondersoek gehou deur die Raad skuldig bevind word aan onbetaamlike of skandelijke gedrag of gedrag wat, indien sodanige persoon se beroep in aanmerking geneem word, onbetaamlik of skandelik is, is strafbaar met een of meer van die volgende strawwe: 45

(a) 'n Waarskuwing of 'n berisping of albei;

(b) skorsing vir 'n vermelde tydperk van die beoefening van sy of haar praktyk of die verrigting van handeling wat by sy of haar beroep hoort;

(c) skrapping van sy of haar naam uit die register; 50

(d) 'n voorgeskrewe boete;

(e) 'n tydperk van verpligte gemeenskapsdiens bepaal deur die Raad;

(f) die betaling van die koste van die verrigtinge; of

(g) teruggawe van enige geld deur die klaer aan die geregistreerde praktisyn betaal. 55

(2) Indien 'n appèl teen 'n straf van skrapping van 'n geregistreerde praktisyn se naam uit die register of skorsing van die beoefening van sy of haar praktyk aangeteken word, bly so 'n straf van krag tot dat die appèl aangehoor word.

- (3) The Council may, subject to such conditions as it determines—
- (a) terminate any suspension under subsection (1) before the expiry of the specified period; or
 - (b) on payment of the prescribed fee, restore to the register any name which has been removed therefrom. 5
- (4) In respect of inquiry proceedings contemplated in section 30, the Council must—
- (a) give notice of that inquiry to the person who is the subject of the inquiry;
 - (b) give an opportunity to that person to either represent himself or herself or to obtain legal representation at the inquiry proceedings;
 - (c) afford that person an opportunity to state his or her case in response to the allegations. 10
- (5) The Council may, at any inquiry proceedings contemplated in section 30—
- (a) take evidence under oath or affirmation;
 - (b) on the direction of either the registrar or the chairperson of the Council, as the case may be, summon witnesses to give evidence at such proceedings; 15
 - (c) require the production of any book, record, document or thing;
 - (d) through either the chairperson of the Council or the presiding officer at the inquiry, as the case may be, administer an oath to any witness or accept an affirmation from such witness; or
 - (e) examine any book, record, document or thing which any witness was required to produce at the proceedings. 20
- (6) A summons to appear before the Council as a witness or to produce to it any book, record, document or thing must be—
- (a) as nearly as practicable, in the prescribed form;
 - (b) signed by the chairperson of the Council or the registrar, as the case may be; 25
 - and
 - (c) served either by registered letter sent through the post or in the same manner as it would have been served if it had been a subpoena issued by a magistrate's court.
- (7) Any person who, having been summoned— 30
- (a) refuses, or without sufficient cause fails, to attend and give evidence relevant to the inquiry at the time and place specified in the summons;
 - (b) refuses to take the oath or to make an affirmation when required to do so by the chairperson of the Council or the presiding officer, as the case may be, at the inquiry; or 35
 - (c) refuses or fails without sufficient cause to produce any book, record, document or thing which he or she has in terms of the summons been required to produce,
- is guilty of an offence and on conviction liable to any sentence which may be imposed on a witness subpoenaed to give evidence in a civil trial in the High Court who is convicted of a similar offence: Provided that every person so summoned is entitled to all the privileges to which a witness subpoenaed to give evidence before a provincial division of the High Court is entitled. 40
- (8) The chairperson of the Council may appoint a person with adequate experience in the administration of justice to be present as an assessor at an inquiry and to advise the Council or the disciplinary committee, as the case may be, on matters of law, procedure or evidence. 45
- (9) If a person registered in terms of this Act (in this section referred to as the accused) is alleged to be guilty of unprofessional conduct and the Council on reasonable grounds is of the opinion that it must impose a fine determined by the Minister in consultation with the Minister of Justice by notice in the *Gazette* on conviction after an inquiry contemplated in terms of section 30 was held, the Council may issue a summons in the manner prescribed on which an endorsement is made by the Council that the accused may admit that he or she is guilty of the said conduct and that he or she may pay the fine stipulated without appearing at the said inquiry. 55

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- (3) Die Raad kan, behoudens die voorwaardes wat hy bepaal—
- (a) enige skorsing kragtens subartikel (1) beëindig voor die verstryking van die vermelde tydperk; of
 - (b) by betaling van die voorgeskrewe geld, enige naam wat uit die register geskrap is, in die register herstel. 5
- (4) Ten opsigte van ondersoekverrigtinge beoog in artikel 30, moet die Raad—
- (a) kennis van daardie ondersoek gee aan die persoon wat die onderwerp van die ondersoek is;
 - (b) aan daardie persoon die geleentheid bied om óf hom- of haarself te verteenwoordig óf regsverteenvoordiging by die ondersoekverrigtinge te bekom; 10
 - (c) daardie persoon die geleentheid bied om sy of haar saak te stel in reaksie op die bewerings.
- (5) Die Raad kan by die ondersoekverrigtinge beoog in artikel 30—
- (a) getuienis afneem onder eed of bevestiging; 15
 - (b) in opdrag van óf die registrateur óf die voorsitter van die Raad, na gelang van die geval, getuies dagvaar om getuienis af te lê by sodanige verrigtinge;
 - (c) die voorlegging van enige boek, aantekening, dokument of voorwerp vereis;
 - (d) deur óf die voorsitter van die Raad óf die voorsittende beamppte by die ondersoek, na gelang van die geval, 'n getuie 'n eed oplê of 'n bevestiging van sodanige getuie aanneem; of 20
 - (e) enige boek, aantekening, dokument of voorwerp wat enige getuie verplig word om by die verrigtinge voor te lê, ondersoek.
- (6) 'n Dagvaarding om as 'n getuie voor die Raad te verskyn of om 'n boek, aantekening, dokument of voorwerp daaraan voor te lê, moet— 25
- (a) so na as moontlik in die voorgeskrewe vorm wees;
 - (b) deur die voorsitter van die Raad of die registrateur, na gelang van die geval, onderteken wees; en
 - (c) bestel word óf deur versending per pos in 'n geregistreerde brief óf op dieselfde wyse as dié waarop dit bestel sou gewees het indien dit 'n dagvaarding was wat deur 'n landdroshof uitgereik is. 30
- (7) Elke gedagvaarde persoon wat—
- (a) weier, of sonder genoegsame rede versuim, om op die in die dagvaarding vermelde tyd en plek by die ondersoek aanwesig te wees en daar tersaaklike getuienis te lewer; 35
 - (b) weier om die eed of 'n bevestiging af te lê wanneer hy of sy deur die voorsitter van die Raad of die voorsittende beamppte, na gelang van die geval, by die ondersoek vereis word om dit te doen; of
 - (c) weier of sonder genoegsame rede versuim om 'n boek, aantekening, dokument of voorwerp voor te lê wat hy of sy ingevolge die dagvaarding verplig was om voor te lê, 40
- is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met enige vonnis wat opgelê kan word aan 'n getuie wat gedagvaar is om getuienis af te lê in 'n siviele verhoor in die Hoë Hof en wat aan 'n soortgelyke misdryf skuldig bevind word: Met dien verstande dat elke persoon wat aldus gedagvaar is, op al die privilegies geregtig is waarop 'n getuie wat gedagvaar is om voor 'n provinsiale afdeling van die Hoë Hof getuienis af te lê, geregtig is. 45
- (8) Die voorsitter van die Raad kan 'n persoon met voldoende ondervinding van regspleging aanstel om as assessor teenwoordig te wees by 'n ondersoek en om die Raad of die tugkomitee, na gelang van die geval, in verband met regsrae, prosedure of bewyslewering te adviseer. 50
- (9) Indien 'n persoon wat ingevolge hierdie Wet geregistreer is (in hierdie artikel die beskuldigde genoem) hom of haar na bewering skuldig gemaak het aan onprofessionele gedrag en die Raad op redelike gronde van mening is dat die Raad by skuldigbevinding na afloop van 'n ondersoek beoog ingevolge artikel 30 'n boete moet oplê wat bepaal word deur die Minister in oorleg met die Minister van Justisie by kennisgewing in die Staatskoerant, kan die Raad 'n dagvaarding op die voorgeskrewe wyse uitreik waarop 'n endossement deur die Raad aangebring word dat die beskuldigde kan erken dat hy of sy hom of haar skuldig gemaak het aan genoemde gedrag, en dat hy of sy die bepaalde boete kan betaal sonder om by vermelde ondersoek te verskyn. 55 60

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(10) Where a summons as contemplated in subsection (9) is issued against an accused in terms of this Act, the accused may, without appearing at an inquiry in terms of section 30, admit to his or her guilt in respect of the conduct referred to in subsection (1) by paying the stipulated fine (in this section referred to as the admission of guilt fine) to the Council before a date specified in the summons. 5

(11) Any penalty imposed under this section, excluding an admission of guilt fine, must be paid to the Council within 14 days after such imposition.

(12) The imposition of a penalty has the effect of a civil judgment of the magistrate's court of the district in which the inquiry contemplated in section 30 took place.

(13) The Minister may, on the recommendation of the Council, amend the amount mentioned in subsection (9) by notice in the *Gazette*. 10

Postponement of imposition of penalty and suspension of penalty or part thereof

35. (1) Where a person has been found guilty of any conduct contemplated in section 30, the Council may—

(a) postpone the imposition of a penalty for such period and on such conditions as it determines; or 15

(b) impose any penalty contemplated in section 34(1)(b), (c) or (d), but order the execution of such penalty or any part thereof to be suspended for such period and on such conditions as it determines.

(2) If, at the end of the period for which the imposition of a penalty has been postponed in terms of subsection (1)(a), the Council is satisfied that the practitioner concerned has observed all the relevant conditions, the Council must inform such practitioner that the penalty contemplated in section 34 will not be imposed upon him or her. 20

(3) If the execution of the penalty or any part thereof has been suspended in terms of subsection (1)(b) and the Council is satisfied that the practitioner concerned has observed all the relevant conditions throughout the period of suspension, the Council must inform that practitioner that the penalty contemplated in section 34 will not be executed. 25

(4) If the execution of a penalty or any part thereof has been suspended in terms of subsection (1)(b) and the practitioner concerned fails to comply with one or more of the conditions of suspension, the Council must put such penalty or part thereof into operation unless the practitioner satisfies the Council that the failure to comply with the conditions concerned was due to circumstances beyond his or her control. 30

Effect of suspension or removal from register 35

36. A person who has been suspended or whose name has been removed from the register in terms of section 34 is disqualified from carrying on his or her profession and his or her registration certificate is deemed to be cancelled until the period of suspension has expired or until his or her name has been restored to the register by the Council.

Cognisance by Council of conduct under certain circumstances 40

37. (1) A registered person who—

(a) has been convicted of any offence by a court of law; and

(b) where the Council is of the opinion that such offence constitutes unprofessional conduct as contemplated in section 30,

may be dealt with by the Council in terms of this Chapter and is liable on conviction to one or more of the penalties contemplated in section 34: Provided that, before imposition of any penalty, such person must be afforded an opportunity to address the Council in extenuation of the conduct in question. 45

(2) Whenever in the course of any proceedings before any court of law it appears to the court that there is *prima facie* proof of unprofessional conduct on the part of a person registered in terms of this Act, the court must direct that a copy of the record of such proceedings, or such portion thereof as is material to the issue, be transmitted to the Council. 50

(10) Waar 'n dagvaarding soos beoog in subartikel (9) ingevolge hierdie Wet teen 'n beskuldigde uitgereik word, kan die beskuldigde, sonder om by 'n ondersoek ingevolge artikel 30 te verskyn, sy of haar skuld ten opsigte van die gedrag bedoel in subartikel (1) erken deur die bepaalde boete (in hierdie artikel die skulderkenningsboete genoem) aan die Raad te betaal voor 'n datum in die dagvaarding vermeld. 5

(11) Enige boete kragtens hierdie artikel opgelê, uitgesonderd 'n skulderkenningsboete, moet binne 14 dae na sodanige oplegging aan die Raad betaal word.

(12) Die oplegging van 'n boete het die krag van 'n siviele vonnis van die landdroshof van die distrik waarin die ondersoek beoog in artikel 30 plaasgevind het.

(13) Die Minister kan op aanbeveling van die Raad die bedrag in subartikel (9) vermeld by kennisgewing in die *Staatskoerant* wysig. 10

Uitstel van oplegging van straf, en opskorting van straf of gedeelte daarvan

35. (1) Waar 'n persoon skuldig bevind is aan enige gedrag beoog in artikel 30, kan die Raad—

(a) die oplegging van 'n straf uitstel vir die tydperk en op die voorwaardes wat deur die Raad bepaal word; of 15

(b) enige straf beoog in artikel 34(1)(b), (c) of (d) oplê, maar gelas dat die tenuitvoerlegging van die straf of enige gedeelte van die straf uitgestel word vir die tydperk en op die voorwaardes wat deur die Raad bepaal word.

(2) Indien die Raad aan die einde van die tydperk waarvoor die oplegging van 'n straf ingevolge subartikel (1)(a) uitgestel is, oortuig is dat die betrokke praktisyn al die tersaaklike voorwaardes nagekom het, moet die Raad sodanige praktisyn in kennis stel dat die straf beoog in artikel 34 nie op hom of haar ten uitvoer gelê gaan word nie. 20

(3) Indien die tenuitvoerlegging van die straf of 'n gedeelte daarvan ingevolge subartikel (1)(b) opgeskort is en die Raad oortuig is dat die betrokke praktisyn gedurende die hele tydperk van die opskorting alle tersaaklike voorwaardes nagekom het, moet die Raad daardie praktisyn in kennis stel dat die straf beoog in artikel 34 nie ten uitvoer gelê gaan word nie. 25

(4) Indien die tenuitvoerlegging van 'n straf of 'n gedeelte daarvan opgeskort is ingevolge subartikel (1)(b) en die betrokke praktisyn versuim om een of meer van die voorwaardes van opskorting na te kom, moet die Raad sodanige straf of gedeelte daarvan ten uitvoer lê, tensy die praktisyn die Raad oortuig dat die versuim om die betrokke voorwaardes na te kom, te wyte is aan omstandighede buite sy of haar beheer. 30

Uitwerking van skorsing of skraping uit register

36. 'n Persoon wat geskors is of wie se naam uit die register geskrap is ingevolge artikel 34, word gediskwalifiseer daarvan om sy of haar beroep te beoefen en sy of haar registrasiesertifikaat word geag ingetrek te wees totdat die tydperk van skorsing verstryk het of totdat sy of haar naam deur die Raad in die register herstel is. 35

Kennisname deur Raad van gedrag in sekere omstandighede

37. (1) Daar kan met 'n geregistreerde persoon wat— 40

(a) aan enige misdryf deur 'n geregshof skuldig bevind is; en

(b) waar die Raad van mening is dat sodanige misdryf onprofessionele gedrag uitmaak, soos beoog in artikel 30,

ingevolge hierdie Hoofstuk deur die Raad gehandel word en so 'n persoon is by skuldigbevinding strafbaar met een of meer van die strawwe beoog in artikel 34: Met dien verstande dat aan sodanige persoon voor strafoplegging 'n geleentheid gebied moet word om die Raad toe te spreek ter vergoeliking van die betrokke gedrag. 45

(2) Wanneer dit ook al in die loop van verrigtinge voor 'n geregshof vir die hof duidelik word dat daar *prima facie*-bewys bestaan van onprofessionele gedrag van die kant van 'n persoon geregistreer ingevolge hierdie Wet, moet die hof gelas dat 'n kopie van die oorkonde van sodanige verrigtinge, of die gedeelte daarvan wat wesenlik by die geskil is, aan die Raad gestuur word. 50

Penalty for false evidence

38. A person who gives false evidence on oath or affirmation at any inquiry held in terms of this Act, knowing such evidence to be false, is guilty of an offence and liable on conviction to the penalties which a court may impose for the crime of perjury.

Limitation of liability

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39. Neither the Council nor any member, officer or employee thereof is liable for any act done in good faith under this Act.

Rules relating to offences

40. (1) The Council must make rules specifying the acts or omissions in respect of which the Council may take disciplinary steps in terms of this Act: Provided that the powers of the Council to make inquiries into and deal with any complaint, charge or allegation contemplated in this Act are not limited to the acts or omissions so specified. 10

(2) No rule made in terms of subsection (1) or any amendment or withdrawal thereof is of force and effect until such rule is approved by the Minister and published in the *Gazette*. 15

Inquiries in respect of mentally impaired registered persons

41. The Council may hold an inquiry in the prescribed manner in respect of a person registered in terms of this Act who appears to be mentally impaired and if that person is found on assessment to be impaired, the Council may—

- (a) impose prescribed conditions relating to the registration of that person; or 20
- (b) suspend or remove such person from practice.

CHAPTER 5**GENERAL AND SUPPLEMENTARY PROVISIONS****Fees charged by registered persons**

42. (1) Every person registered under this Act must before rendering any traditional health services inform the person to whom the services are to be rendered or any person responsible for the maintenance of such person, of the fee which he or she intends to charge for such services. 25

(2) Any traditional health practitioner who in respect of any traditional health services rendered by him or her claims payment from any person (in this section referred to as the patient), must, subject to the provisions of the Medical Schemes Act, 1998 (Act No. 131 of 1998), where applicable, furnish the patient with a detailed account within a reasonable period. 30

(3)(a) The patient may, within three months after receipt of the account contemplated in subsection (2), apply in writing to the Council for a determination of the amount which, in the opinion of the Council, should have been charged for the services to which the account relates. 35

(b) The Council must, as soon as possible after receipt of the application, determine the said amount and notify the traditional health practitioner and the patient, in writing, of the amount so determined. 40

(c) Before the Council determines an amount, it must afford the practitioner concerned an opportunity to submit to the Council, in writing, the relevant factors to be considered by the Council in support of the amount charged.

(4) The Minister may, after consultation with the Council, prescribe the procedure which the Council must follow in disposing of an application under subsection (3). 45

(5) The Council may, from time to time, determine and publish the fees used by the Council as the norm for the determination of amounts contemplated in subsection (3).

Straf vir valse getuienis

38. 'n Persoon wat by 'n ondersoek wat ingevolge hierdie Wet gehou word, valse getuienis onder eed of bevestiging aflê met die wete dat sodanige getuienis vals is, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die strawwe wat 'n hof vir die misdryf van meened kan oplê. 5

Beperking van aanspreeklikheid

39. Nóg die Raad nóg enige lid, beampte of werknemer daarvan is aanspreeklik vir enige handeling te goeder trou kragtens hierdie Wet verrig.

Reëls betreffende misdrywe

40. (1) Die Raad moet reëls uitvaardig wat die handeling of versuime uiteensit ten opsigte waarvan die Raad tugstappe ingevolge hierdie Wet kan doen: Met dien verstande dat die bevoegdhede van die Raad om ondersoek in te stel na en te handel met enige klagte, aanklag of bewering in hierdie Wet beoog nie beperk is tot die handeling of versuime wat aldus uiteengesit word nie. 10

(2) Geen reël uitgevaardig ingevolge subartikel (1) of enige wysiging of intrekking daarvan is van krag alvorens sodanige reël deur die Minister goedgekeur en in die *Staatskoerant* gepubliseer is nie. 15

Ondersoeke ten opsigte van geestesgestremde geregistreerde persone

41. Die Raad kan 'n ondersoek op die voorgeskrewe wyse hou ten opsigte van 'n persoon wat ingevolge hierdie Wet geregistreer is en wat oënskynlik geestesgestremd is en indien daardie persoon in 'n evaluering bevind word gestremd te wees, kan die Raad— 20

(a) voorgeskrewe voorwaardes met betrekking tot die registrasie van daardie persoon oplê; of

(b) sodanige persoon uit die praktyk skors of verwyder. 25

HOOFTUK 5**ALGEMENE EN AANVULLENDE BEPALINGS****Gelde deur geregistreerde persone**

42. (1) Elke persoon kragtens hierdie Wet geregistreer moet, voordat hy of sy tradisionele gesondheidsdienste lewer, die persoon aan wie die dienste gelewer gaan word of 'n persoon wat vir die onderhoud van sodanige persoon verantwoordelik is, in kennis stel van die gelde wat hy of sy voornemens is om vir sodanige dienste te vorder. 30

(2) Enige tradisionele gesondheidspraktyk wat ten opsigte van tradisionele gesondheidsdienste deur hom of haar gelewer, betaling van 'n persoon (in hierdie artikel die pasiënt genoem) vorder, moet behoudens die bepaling van die Wet op Mediese Skemas, 1998 (Wet No. 131 van 1998), waar toepaslik, binne 'n redelike tydperk aan die pasiënt 'n gespesifiseerde rekening verstrek. 35

(3) (a) Die pasiënt kan binne drie maande na ontvangs van die rekening in subartikel (2) beoog, skriftelik by die Raad aansoek doen om die bepaling van die bedrag wat na die Raad se mening gevra behoort te geword het vir die dienste waarop die rekening betrekking het. 40

(b) Die Raad moet bedoelde bedrag so gou doenlik na ontvangs van die aansoek bepaal en die tradisionele gesondheidspraktyk en die pasiënt skriftelik van die aldus bepaalde bedrag in kennis stel.

(c) Voordat die Raad 'n bedrag bepaal, moet hy die betrokke praktyk 'n geleentheid bied om aan die Raad die tersaaklike faktore wat deur die Raad in ag geneem moet word ter ondersteuning van die gevorderde bedrag skriftelik voor te lê. 45

(4) Die Minister kan na oorleg met die Raad die prosedure voorskryf wat die Raad by afhandeling van 'n aansoek kragtens subartikel (3) moet volg.

(5) Die Raad kan van tyd tot tyd die gelde bepaal en publiseer wat die Raad as maatstaf gebruik vir die bepaling van bedrae in subartikel (3) beoog. 50

(6)(a) A claim for payment, which is the subject of an application contemplated in subsection (3) and of which notice has been given by the Council or the patient to the traditional health practitioner concerned, is not recoverable until a determination has been made in terms of subsection (3).

(b) Only the amount so determined is payable and if the patient has paid to the traditional health practitioner concerned an amount exceeding the amount so determined, the traditional health practitioner must repay the patient the amount by which that payment exceeds the amount so determined. 5

(7) This section does not divest the Council of any of its functions in terms of this Act with regard to acts or omissions in respect of which it may take disciplinary steps. 10

(8) For the purposes of this section "fee" includes payment in kind.

False representations, false entries in register and impersonation

43. (1) A person is guilty of an offence if he or she—

(a) by means of a false representation procures or attempts to procure for himself or herself or any other person, registration or any certificate or decision referred to in this Act; 15

(b) makes or causes to be made any unauthorised entry or alteration in or removal from a register, certified copy thereof, or extract therefrom or any certificate issued under this Act;

(c) wilfully destroys, damages or renders illegible any entry in the register or, without the permission of the holder thereof, any certificate issued under this Act; 20

(d) forges or, knowing it to be forged, utters any document purporting to be a certificate issued under this Act;

(e) impersonates any person registered in terms of this Act; or 25

(f) supplies or offers to supply to any person not registered under this Act or any other law, an instrument or appliance which can be used, or is claimed to be effective, for the purpose of diagnosing, treating or preventing physical or mental defects, illnesses or deficiencies, whilst knowing that such instrument or appliance will be used by such unregistered person for the purpose of performing for gain an act which such unregistered person is in terms of this Act or any other law prohibited from performing for gain. 30

(2) A person found guilty of an offence contemplated in subsection (1) is liable on conviction to a fine or to a period of imprisonment or to both a fine and a period of imprisonment. 35

Limitations in respect of unregistered persons

44. (1) No remuneration is recoverable in respect of any act which relates to the profession of a traditional health practitioner if such an act is performed by a person who is not authorised under this Act to perform such act for gain.

(2) No person other than a person registered in terms of this Act, and holding the necessary qualifications, is eligible for or entitled to hold any appointment to any establishment, institution, body, organisation or association, whether public or private, if such appointment involves the performance of any act which an unregistered person, in terms of this Act, may not perform for gain: Provided that nothing in this subsection precludes the training of traditional health practitioners or students under the supervision of a suitably qualified traditional health practitioner, or the employment in any hospital or similar institution of any person undergoing training with a view to registration in terms of this Act, under the supervision of a suitably qualified traditional health practitioner or other health professional. 45

WET OP TRADISIONELE GESONDHEIDSPRAKTISYNS, Wet No. 35, 2004
2004

(6) (a) 'n Eis om betaling wat die onderwerp is van 'n aansoek beoog in subartikel (3) en waarvan die Raad of die pasiënt aan die betrokke tradisionele gesondheidspraktisyn kennis gegee het, is nie verhaalbaar nie totdat 'n bepaling ingevolge subartikel (3) gemaak is.

(b) Slegs die bedrag aldus bepaal, is betaalbaar en, indien die pasiënt die betrokke tradisionele gesondheidspraktisyn 'n bedrag betaal het wat die aldus bepaalde bedrag, oorskry, moet die tradisionele gesondheidspraktisyn die bedrag waarmee daardie betaling die aldus bepaalde bedrag oorskry, aan die pasiënt terugbetaal. 5

(7) Hierdie artikel ontdoen nie die Raad van enige van sy werksaamhede ingevolge hierdie Wet met betrekking tot handelinge of versuime ten opsigte waarvan die Raad tugstappe kan doen nie. 10

(8) By die toepassing van hierdie artikel sluit "gelde" betaling in natura in.

Wanvoorstellings, vals inskrywings in register en identiteitsbedrog

43. (1) 'n Persoon is aan 'n misdryf skuldig indien hy of sy—

(a) deur middel van 'n wanvoorstelling vir hom- of haarself of vir enige ander persoon registrasie of enige sertifikaat of beslissing bedoel in hierdie Wet verkry of poog te verkry; 15

(b) 'n ongemagtigde inskrywing of wysiging in of skraping uit 'n register, 'n gesertifiseerde kopie daarvan of uittreksel daaruit of op 'n sertifikaat kragtens hierdie Wet uitgereik, maak of laat maak; 20

(c) 'n inskrywing in die register of, sonder die toestemming van die besitter daarvan, enige sertifikaat kragtens hierdie Wet uitgereik, opsetlik vernietig, beskadig of onleesbaar maak;

(d) 'n dokument wat heet 'n sertifikaat kragtens hierdie Wet uitgereik te wees, vervals of, wetende dat dit vervals is, uitgee; 25

(e) hom of haar voordoen as 'n persoon wat ingevolge hierdie Wet geregistreer is; of

(f) 'n instrument of toestel wat gebruik kan word, of ten opsigte waarvan daarop aanspraak gemaak word dat dit doelmatig is, vir die diagnoseer, behandeling of voorkoming van liggaamlike of geestesgebreke, ongesteldhede of tekortkominge, aan 'n persoon wat nie kragtens hierdie Wet of enige ander reg geregistreer is nie, verskaf of die verskaffing daarvan aanbied, wetende dat sodanige instrument of toestel deur sodanige ongeregistreerde persoon gebruik gaan word om vir wins 'n handeling te verrig wat sodanige ongeregistreerde persoon ingevolge hierdie Wet of enige ander reg verbied word om vir wins te verrig. 30 35

(2) 'n Persoon wat skuldig bevind word aan 'n misdryf beoog in subartikel (1) is by skuldigbevinding strafbaar met 'n boete of met 'n tydperk van gevangenisstraf of met beide 'n boete en 'n tydperk van gevangenisstraf.

Beperkings ten opsigte van ongeregistreerde persone

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44. (1) Geen vergoeding is verhaalbaar ten opsigte van 'n handeling wat met die beroep van 'n tradisionele gesondheidspraktisyn verband hou nie, indien so 'n handeling verrig word deur 'n persoon wat nie kragtens hierdie Wet gemagtig is om sodanige handeling vir wins te verrig nie.

(2) Geen ander persoon nie as 'n persoon ingevolge hierdie Wet geregistreer, en wat oor die nodige kwalifikasies beskik, is benoembaar of geregtig daarop om 'n aanstelling te beklee by enige inrigting, instelling, liggaam, organisasie of vereniging, hetsy openbaar of privaat, indien sodanige aanstelling die verrigting van 'n handeling behels wat 'n ongeregistreerde persoon ingevolge hierdie Wet nie vir wins mag verrig nie: Met dien verstande dat niks in hierdie subartikel die opleiding van tradisionele gesondheidspraktisyns of studente onder toesig van 'n paslik gekwalifiseerde tradisionele gesondheidspraktisyn, of indiensstelling in enige hospitaal of soortgelyke instelling van enige persoon wat opleiding ondergaan met die oog op registrasie ingevolge hierdie Wet, onder die toesig van 'n paslik gekwalifiseerde tradisionele gesondheidspraktisyn of ander gesondheidsberoeps persoon belet nie. 45 50 55

Investigation of matters relating to teaching or training of certain classes of persons

45. (1) Despite any law to the contrary, a person who is authorised by the Council, in writing, to investigate any matter relating to the teaching or training of any person or class of persons undergoing such teaching or training for the purpose of qualifying themselves for practising the profession to which this Act applies, may, in the manner contemplated in section 32(1) for the purpose of making such investigation, enter any institution or premises utilised in the teaching or training of any such person or class of persons. 5

(2) A person who prevents a person authorised in terms of subsection (1) from entering any institution or premises contemplated in that subsection, or who hinders that person from pursuing his or her investigation, is guilty of an offence and liable on conviction to a fine or to a period of imprisonment or to both a fine and a period of imprisonment. 10

Exemptions

46. (1) The Minister may, after consultation with the Council, by notice in the *Gazette* exempt any juristic person or class of juristic persons specified in the notice, either generally or subject to such conditions as may be specified in the notice, from the operation of this Act, so as to enable such juristic person to practise as a traditional health practitioner, subject to the registration of such juristic person under this Act. 20

(2) Any reference in this Act or any other law to a person registered in terms of this Act to practise as a traditional health practitioner or to a partner or partnership in relation to such registered person, is deemed to include a reference to a juristic person contemplated in subsection (1) or to a member of such a juristic person, as the case may be, unless the context indicates otherwise. 25

(3) The Minister may, after consultation with the Council, at any time by notice in the *Gazette* amend or repeal any notice issued under subsection (1).

Regulations

47. (1) The Minister may, after consultation with the Council, make regulations relating to— 30

- (a) the appointment of members of the Council;
- (b) (i) the registration by the Council of students in any prescribed category of traditional health practice undergoing education or training at any accredited training institution or educational authority or with any traditional tutor, the fees payable in respect of such registration and the removal by the Council from the register in question of the names of such students; 35
- (ii) the minimum standards of education and training required of students as a condition precedent to registration; 40
- (iii) the duration of the educational programme to be followed by students at an educational or training institution or with a traditional tutor;
- (iv) the minimum requirements of the curricula and the minimum standards of education or examinations which must be maintained at every educational or training institution or by every traditional tutor offering training in traditional health practice, in order to secure registration and recognition of the qualifications obtained under this Act; 45
- (c) (i) the minimum age and standards of general education required of a candidate for examination for a certificate entitling the holder thereof to registration in terms of this Act; 50
- (ii) the courses of study and the training required for examinations;
- (iii) institutions at which, or persons with whom, educational courses or training may be undertaken and any other requirements relating to such study or training; 55
- (iv) the registration by the Council of persons undertaking educational courses or undergoing training and the fees payable in respect of such registration;
- (v) the fees payable by candidates for examinations;

Ondersoek van aangeleenthede betreffende onderrig of opleiding van sekere klasse persone

45. (1) Ondanks enige reg tot die teendeel kan 'n persoon wat skriftelik deur die Raad gemagtig is om enige aangeleentheid te ondersoek betreffende die onderrig of opleiding van enige persoon of klas persone wat sodanige onderrig of opleiding ondergaan met die doel om te kwalifiseer vir die beoefening van die beroep waarop hierdie Wet van toepassing is, enige instelling of perseel wat gebruik word in verband met die onderrig of opleiding van enige sodanige persoon of klas persone op die wyse beoog in artikel 32(1) betree met die doel om sodanige ondersoek te doen. 5

(2) Enige persoon wat 'n persoon ingevolge subartikel (1) gemagtig, verhinder om 'n instelling of perseel in daardie subartikel beoog, betree, of wat daardie persoon verhinder om sy of haar ondersoek te doen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of met 'n tydperk van gevangenisstraf of met beide 'n boete en 'n tydperk van gevangenisstraf. 10

Vrystellings 15

46. (1) Die Minister kan, na oorleg met die Raad, by kennisgewing in die *Staatskoerant* 'n regs persoon of klas regspersone in die kennisgewing vermeld, óf in die algemeen óf behoudens die voorwaardes wat in die kennisgewing vermeld word, van die werking van hierdie Wet vrystel ten einde sodanige regs persoon in staat te stel om as 'n tradisionele gesondheidspraktisyn te praktiseer, behoudens die registrasie van sodanige regs persoon kragtens hierdie Wet. 20

(2) Enige verwysing in hierdie Wet of in enige ander reg na 'n persoon wat ingevolge hierdie Wet geregistreer is om as 'n tradisionele gesondheidspraktisyn te praktiseer of na 'n vennoot van of 'n vennootskap met betrekking tot sodanige geregistreerde persoon, word geag 'n verwysing in te sluit na 'n regs persoon beoog in subartikel (1) of na 'n lid van so 'n regs persoon, na gelang van die geval, tensy uit die samehang anders blyk. 25

(3) Die Minister kan na oorleg met die Raad te eniger tyd by kennisgewing in die *Staatskoerant* 'n kennisgewing uitgereik kragtens subartikel (1) wysig of intrek.

Regulasies

47. (1) Die Minister kan na oorleg met die Raad regulasies uitvaardig betreffende— 30

(a) die aanstelling van lede in die Raad;

(b) (i) die registrasie deur die Raad van studente in enige voorgeskrewe kategorie van tradisionele gesondheidspraktyk wat aan enige geakkrediteerde opleidingsinstelling of onderwysowerheid of by enige tradisionele opleier onderrig of opleiding ondergaan, die gelde betaalbaar ten opsigte van sodanige registrasie en die skraping deur die Raad uit die betrokke register van die name van sodanige studente; 35

(ii) die minimum onderrig- en opleidingstandaarde van studente vereis as voorvereiste vir registrasie; 40

(iii) die duur van die onderwysprogram wat deur die studente aan 'n onderwys- of opleidingsinstelling of by 'n tradisionele opleier gevolg moet word;

(iv) die minimum vereistes van die leerplanne en die minimum onderrig- of eksamenstandaarde wat gehandhaaf moet word aan elke onderwys- of opleidingsinstelling of deur enige tradisionele opleier wat opleiding in tradisionele gesondheidspraktyk aanbied, ten einde registrasie en erkenning van die kwalifikasies kragtens hierdie Wet verkry, te verseker; 45

(c) (i) die minimum ouderdom en die standaard van algemene onderrig van 'n kandidaat vereis vir eksaminering vir 'n sertifikaat wat die houer daarvan op registrasie ingevolge hierdie Wet geregtig maak; 50

(ii) die studiekursusse en die opleiding vir eksamens vereis;

(iii) instellings waarby of persone by wie opvoedkundige kursusse of opleiding gevolg of ondergaan kan word en enige ander vereistes in verband met sodanige studie of opleiding; 55

(iv) die registrasie deur die Raad van persone wat opvoedkundige kursusse volg of opleiding ondergaan en die gelde betaalbaar ten opsigte van sodanige registrasie;

(v) die gelde betaalbaar deur kandidate vir eksamens; 60

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- (vi) the appointment and remuneration of examiners for examinations;
- (vii) any matter incidental to examinations or the issue of certificates by the Council;
- (viii) the nature and duration of the practical training to be completed by persons before they may be registered; 5
- (ix) the nature and duration of the training to be completed by a person who has obtained a qualification as a traditional health practitioner, but who is not yet registered as such, before he or she may be registered as such;
- (d) the conditions under which a registered person may practise as a traditional health practitioner or practise in any category of traditional health practice; 10
- (e) (i) the registration of students of traditional health practice, including the recording of particulars relating to their training and proof of the fulfilment of the requirements thereof;
- (ii) the health establishments or other institutions, if any, at which or the persons with whom such training may be undertaken; 15
- (iii) any other matter incidental to the registration or training of students;
- (f) (i) the registration of the categories of registered persons, which includes diviners, herbalists, traditional birth attendants and traditional surgeons; 20
- (ii) the registration of specialities;
- (iii) the requirements to be satisfied, including the experience to be obtained, the nature and duration of the training to be undergone and the qualifications or additional qualifications required from a person before any category or speciality may be registered; 25
- (iv) the circumstances under which any applicant for the registration of any category or speciality may be exempted from any of such requirements;
- (v) conditions in respect of the practices of persons whose categories or specialities have been registered, including conditions restricting the practice of any such person to the category or speciality registered in his or her name; 30
- (g) the conduct of an inquiry contemplated in section 30, including—
 - (i) the manner in which complaints or charges brought against a registered person must be lodged;
 - (ii) the method of summoning an accused person and the penalties for failure or refusal on the part of any such person to attend or for obstructing or interrupting the proceedings; 35
 - (iii) the continuation of a disciplinary inquiry, after a plea has been lodged, by the committee conducting the inquiry, should one or more members of the committee be unable to continue to serve: Provided that at least two of the original members of the committee must be available to continue with the inquiry; 40
 - (iv) the procedure to be followed to lodge an appeal with an appeal committee and the time within which an appeal may be lodged;
 - (v) any other matter relating to the conduct of such an inquiry or appeal; 45
- (h) (i) inquiries contemplated in section 41 relating to students or persons registered under this Act who appear to be mentally impaired;
- (ii) the assessment of the condition of mentally impaired persons;
- (iii) the conditions to be imposed on mentally impaired person's registration or practice; 50
- (iv) the suspension or removal from practice of mentally impaired persons;
- (v) the revocation of any of the imposed conditions, or of suspension or removal from practice;
- (vi) acts of unprofessional conduct committed before or during assessment or investigation of mentally impaired persons. 55
- (i) the procedure which the Council must follow in disposing of an application brought under section 42(3);

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- (vi) die aanstelling en vergoeding van eksaminatore vir eksamens;
- (vii) enige aangeleentheid wat in verband staan met eksamens of die uitreik van sertifikate deur die Raad;
- (viii) die aard en duur van die praktiese opleiding wat voltooi moet word deur persone voordat hulle geregistreer kan word; 5
- (ix) die aard en duur van die opleiding wat voltooi moet word deur 'n persoon wat 'n kwalifikasie as tradisionele gesondheidspraktisyn verwerf het, maar wat nog nie as sodanig geregistreer is nie, alvorens hy of sy as sodanig geregistreer kan word;
- (d) die voorwaardes waarop enige geregistreerde persoon as 'n tradisionele gesondheidspraktisyn kan praktiseer of in enige kategorie van tradisionele gesondheidspraktyk kan praktiseer; 10
- (e) (i) die registrasie van studente in tradisionele gesondheidspraktyk, met inbegrip van die aanteken van besonderhede betreffende hulle opleiding en bewys van voldoening aan die vereistes daarvan; 15
- (ii) die gesondheidsinrigtings of ander instellings, as daar is, waarby of die persone by wie sodanige opleiding ondergaan kan word;
- (iii) enige ander aangeleentheid wat in verband staan met die registrasie of opleiding van studente; 20
- (f) (i) die registrasie van die kategorieë van geregistreerde persone, wat wiggelaars, kruiedokters, tradisionele geboortebegeleiers en tradisionele chirurgie insluit; 25
- (ii) die registrasie van spesialiteite;
- (iii) die vereistes waaraan voldoen moet word, met inbegrip van die ondervinding wat opgedoen moet word, die aard en duur van die opleiding wat ondergaan moet word en die kwalifikasies of bykomende kwalifikasies wat vereis word van 'n persoon alvorens 'n kategorie of spesialiteit geregistreer kan word; 30
- (iv) die omstandighede waarin enige aansoeker om registrasie van enige kategorie of spesialiteit vrygestel kan word van enige sodanige vereistes;
- (v) voorwaardes ten opsigte van die praktyke van persone wie se kategorieë of spesialiteite geregistreer is, met inbegrip van voorwaardes wat die praktyk van enige sodanige persoon beperk tot die kategorie of spesialiteit wat in sy of haar naam geregistreer is; 35
- (g) die instel van 'n ondersoek beoog in artikel 30, met inbegrip van—
- (i) die wyse waarop klagtes of aanklagte ingebring teen 'n geregistreerde persoon aanhangig gemaak moet word;
- (ii) die metode waarvolgens 'n beskuldigde persoon gedagvaar moet word en die strawwe vir versuim of weiering aan die kant van enige sodanige persoon om te verskyn of vir dwarsboming of onderbreking van die verrigtinge; 40
- (iii) die voortsetting van 'n tugondersoek, nadat 'n pleit ingedien is, deur die komitee wat die ondersoek instel, indien 'n lid of lede van die komitee nie kan voortgaan om te dien nie: Met dien verstande dat minstens twee van die oorspronklike lede van die komitee beskikbaar moet wees om die ondersoek voort te sit; 45
- (iv) die prosedure wat gevolg moet word om 'n appèl by 'n appèlkomitee in te dien en die tyd waarbinne 'n appèl ingedien kan word; 50
- (v) enige ander aangeleentheid betreffende die instel van so 'n ondersoek of appèl;
- (h) (i) ondersoeke boog in artikel 41 betreffende studente of persone kragtens hierdie Wet geregistreer wat oënskynlik geestesgestremd is; 55
- (ii) die assessering van die toestand van geestesgestremde persone;
- (iii) die voorwaardes wat 'n geestesgestremde persoon se registrasie of praktyk opgelê moet word;
- (iv) die skorsing of verwydering uit praktyk van geestesgestremde persone;
- (v) die herroeping van enige van die opgelegde voorwaardes of van skorsing of verwydering uit praktyk; 60
- (vi) handeling van onprofessionele gedrag gepleeg voor of gedurende assessering of die ondersoek van geestesgestremde persone;
- (i) die prosedure wat die Raad moet volg by beskikking oor 'n aansoek wat kragtens artikel 42(3) gebring word; 65

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- (j) traditional medicines in order to protect the public and to ensure safety of use, administration or application;
- (k) standards of traditional health practice in order to ensure that practices are not detrimental to the health of patients or the general public;
- (l) scopes of practice of the various categories of traditional health practitioners; 5
- (m) any disease contemplated in section 49(1)(g) to be terminal; and
- (n) generally any matter which it is necessary to prescribe in order to effect the smooth implementation of this Act and the transition of traditional health practice from an unregulated to a regulated occupation.
- (2) The provisions of any regulation made under paragraph (e) or (f) of subsection (1) relating to fees payable under section 23(4) may vary according to the reason for the removal of a person's name from the register and the period during which it was so removed. 10
- (3) Any regulation made under this section may prescribe penalties for any contravention thereof or failure to comply therewith. 15
- (4) The Minister must, not less than three months before any regulation is made under subsection (1)—
- (a) publish the regulation in the *Gazette* together with a notice declaring his or her intention to make such regulation; and
- (b) invite interested persons to comment thereon or to make representations with regard thereto. 20
- (5) Subsection (4) does not apply in respect of—
- (a) any regulation which has been amended by the Minister in consequence of representations received by him or her as a result of the notice published in terms of subsection (4); and 25
- (b) any regulation in respect of which the Council advises the Minister that the public interest requires it to be made without delay.

Rules

48. (1) The Council may make rules relating to—
- (a) the conduct of the business and the procedure at meetings of the Council and committees of the Council and the manner in which minutes of such meetings must be kept; 30
- (b) the manner in which—
- (i) contracts must be entered into on behalf of the Council;
- (ii) the accounts of the Council must be kept; and 35
- (iii) money accruing to the Council must be disposed of;
- (c) the allowances which may be paid to members of the Council or to members of committees of the Council;
- (d) the duties and the conditions of service of the registrar and other officers appointed under this Act; 40
- (e) any fees other than prescribed fees payable in terms of this Act;
- (f) the various registers to be kept under this Act, the certificates which may be issued under this Act and the manner in which alterations may be effected in such registers;
- (g) the forms to be completed and the documents to be submitted by an applicant for purposes of registration or restoration to the register; 45
- (h) the returns and information to be furnished by a person registered under this Act;
- (i) any other matter which must or may be promulgated as rules under this Act.
- (2) The Council must, not less than three months before any rule is made under this Act— 50
- (a) publish such rule in the *Gazette* together with a notice declaring the Council's intention to make such rule; and
- (b) invite interested persons to comment thereon or to make representations with regard thereto. 55

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- (j) tradisionele medisynes ten einde die publiek te beskerm en veiligheid van gebruik, toediening of aanwending te verseker;
- (k) standarde van tradisionele gesondheidspraktyk ten einde te verseker dat praktyke nie skadelik vir die gesondheid van pasiënte of die algemene publiek is nie; 5
- (l) praktykbestek van die onderskeie kategorieë tradisionele gesondheidspraktyks;
- (m) enige terminale siekte beoog in artikel 49(1)(g); en
- (n) oor die algemeen enige aangeleentheid wat voorgeskryf moet word ten einde die gladde toepassing van hierdie Wet ten uitvoer te bring en die oorgang van tradisionele gesondheidspraktyk van 'n ongereguleerde na 'n gereguleerde beroep te bewerkstellig. 10
- (2) Die bepalinge van enige regulasie uitgevaardig kragtens paragraaf (e) of (f) van subartikel (1) betreffende gelde betaalbaar kragtens artikel 23(4) kan verskil na gelang van die rede waarom 'n persoon se naam uit die register geskrap is en die tydperk waartydens dit aldus geskrap is. 15
- (3) Enige regulasie kragtens hierdie artikel uitgevaardig, kan strawwe voorskryf vir enige oortreding daarvan of versuim om daaraan te voldoen.
- (4) Die Minister moet minstens drie maande voordat enige regulasie kragtens subartikel (1) uitgevaardig word— 20
- (a) die regulasie in die *Staatskoerant* publiseer tesame met 'n kennisgewing waarin sy of haar voorneme om die regulasie uit te vaardig, verklaar word; en
- (b) belanghebbendes uitnoui om daarvoor kommentaar te lewer of voorleggings in verband daarmee te doen.
- (5) Subartikel (4) is nie van toepassing nie ten opsigte van— 25
- (a) enige regulasie wat deur die Minister gewysig is as gevolg van voorleggings deur hom of haar ontvang na aanleiding van die kennisgewing ingevolge subartikel (4) gepubliseer; en
- (b) enige regulasie ten opsigte waarvan die Minister deur die Raad geadviseer word dat die openbare belang vereis dat dit sonder versuim uitgevaardig moet word. 30

Reëls

48. (1) Die Raad kan reëls uitvaardig betreffende—
- (a) die verrigting van die werksaamhede en die prosedure by vergaderings van die Raad en komitees van die Raad en die wyse waarop notule van sodanige vergaderings gehou moet word; 35
- (b) die wyse waarop—
- (i) kontrakte namens die Raad aangegaan moet word;
- (ii) die rekeninge van die Raad gehou moet word; en
- (iii) daar oor geld wat aan die Raad toeval, beskik moet word; 40
- (c) die toelaes wat aan lede van die Raad of aan lede van komitees van die Raad betaal kan word;
- (d) die pligte en die diensvoorwaardes van die registrateur en ander beamptes kragtens hierdie Wet aangestel;
- (e) enige ander gelde as voorgeskrewe gelde betaalbaar ingevolge hierdie Wet; 45
- (f) die onderskeie registers wat kragtens hierdie Wet gehou moet word, die sertifikate wat kragtens hierdie Wet uitgereik kan word en die wyse waarop veranderings in sodanige registers aangebring kan word;
- (g) die vorms wat ingevul moet word en die dokumente wat voorgelê moet word deur 'n aansoeker met die oog op registrasie of herstel in die register; 50
- (h) die opgawes en inligting wat deur enige persoon wat kragtens hierdie Wet geregistreer is, verstrekk moet word;
- (i) enige ander aangeleentheid wat kragtens hierdie Wet as reëls uitgevaardig moet of kan word.
- (2) Die Raad moet minstens drie maande voordat enige reël kragtens hierdie Wet uitgevaardig word— 55
- (i) sodanige reël in die *Staatskoerant* publiseer tesame met 'n kennisgewing waarin die Raad se voorneme om sodanige reël uit te vaardig, verklaar word; en
- (ii) belanghebbendes uitnoui om kommentaar daarop te lewer of voorleggings in verband daarmee te doen. 60

Act No. 35, 2004 TRADITIONAL HEALTH PRACTITIONERS ACT, 2004**Offences**

- 49. (1)** A person who is not registered as a traditional health practitioner or as a student in terms of this Act is guilty of an offence if he or she—
- (a) for gain practises as a traditional health practitioner, whether or not purporting to be registered; 5
 - (b) for gain—
 - (i) physically examines any person;
 - (ii) performs any act of diagnosing, treating or preventing any physical defect, illness or deficiency in respect of any person;
 - (iii) advises any person on his or her physical or mental state; 10
 - (iv) by reason of information provided by any person or obtained from such person in any manner whatsoever—
 - (aa) diagnoses such person's physical or mental state;
 - (bb) advises such person on his or her physical or mental state;
 - (cc) supplies or sells to or prescribes for such person any traditional medicine or treatment; 15
 - (v) prescribes or provides any traditional medicine, substance or thing; or
 - (vi) performs any other act specially pertaining to the profession;
 - (c) except in accordance with any other law, performs any act having as its object— 20
 - (i) the diagnosis, treatment or prevention of any physical defect, illness or deficiency in any person; and
 - (ii) obtaining by virtue of the performance of such act, either for himself or herself or for any other person, any benefit by way of deriving profit from the sale or disposal of any traditional medicine, foodstuff or substance or by way of any donation or gift or by way of providing accommodation, or obtaining, either for himself or herself or for any other person, any gain whatsoever; 25
 - (d) pretends, or holds himself or herself out, to be a traditional health practitioner or student (whether or not purporting to be registered), of whatever description, of physical defects, illnesses or deficiencies; 30
 - (e) uses the name of traditional health practitioner, student, healer or doctor or any name, title, description or symbol indicating, or calculated to lead persons to infer, that he or she is the holder of any qualification as a traditional health practitioner or of any other qualification enabling him or her to diagnose, treat or prevent physical defects, illnesses or deficiencies, or that he or she is registered under this Act as a traditional health practitioner or a student; 35
 - (f) except in accordance with any other law, by words, conduct or demeanour holds himself or herself out to be able, qualified or competent to diagnose, treat or prevent physical defects, illnesses or deficiencies or to prescribe or supply any traditional medicine, substance or thing in respect of such defects, illnesses or deficiencies; or 40
 - (g)
 - (i) diagnoses, treats or offers to treat, or prescribes treatment or any cure for, cancer, HIV and AIDS or any other prescribed terminal disease; 45
 - (ii) holds himself or herself out to be able to treat or cure cancer, HIV and AIDS or any other prescribed terminal disease or to prescribe treatment therefor; or
 - (iii) holds out that any article, compound, traditional medicine or apparatus is or may be of value for the alleviation, curing or treatment of cancer, HIV and AIDS or any other prescribed terminal disease. 50
- (2)** For the purposes of subsection (1) "cancer" includes all neoplasms, irrespective of their origin, including lymphoma and leukaemia.
- (3)** A person who is not registered as a traditional health practitioner, is guilty of an offence if he or she— 55

Misdrywe

- 49.** (1) 'n Persoon wat nie ingevolge hierdie Wet geregistreer is as 'n tradisionele gesondheidspraktisyn of as 'n student nie, is aan 'n misdryf skuldig indien hy of sy—
- (a) vir wins praktiseer as 'n tradisionele gesondheidspraktisyn, hetsy hy of sy voorgee geregistreer te wees, al dan nie; 5
 - (b) vir wins—
 - (i) enige persoon liggaamlik ondersoek;
 - (ii) enige handeling van diagnoseer, behandeling of voorkoming van enige liggaamlike gebrek, ongesteldheid of tekortkoming ten opsigte van enige persoon verrig; 10
 - (iii) enige persoon oor sy of haar liggaamlike of geestestoestand adviseer;
 - (iv) op grond van inligting deur enige persoon verskaf of op enige wyse hoegenaamd van sodanige persoon verkry—
 - (aa) sodanige persoon se liggaamlike of geestestoestand diagnoseer;
 - (bb) sodanige persoon oor sy of haar liggaamlike of geestestoestand adviseer; 15
 - (cc) enige tradisionele medisyne of behandeling aan sodanige persoon verskaf of verkoop of dit vir hom of haar voorskryf;
 - (v) enige tradisionele medisyne, stof of ding voorskryf of verskaf; of
 - (vi) enige ander handeling verrig wat by uitstek betrekking het op die beroep; 20
 - (c) behalwe ooreenkomstig enige ander reg, enige handeling verrig wat as oogmerk het—
 - (i) die diagnoseer, behandeling of voorkoming van enige liggaamlike gebrek, ongesteldheid of tekortkoming in enige persoon; en
 - (ii) uit hoofde van die verrigting van sodanige handeling, die verkryging van enige voordeel vir óf hom- of haarself óf enige ander persoon deur profyt te maak uit die verkoop of vervreemding van enige tradisionele medisyne, voedsel of stof of by wyse van enige donasie of geskenk of by wyse van die verskaffing van akkommodasie, of die verkryging van enige ander wins hoegenaamd óf vir hom- of haarself óf vir enige ander persoon; 25
 - (d) voorgee om 'n tradisionele gesondheidspraktisyn of student (hetsy hy of sy voorgee geregistreer te wees, al dan nie), van watter beskrywing ook al, van liggaamlike gebreke, ongesteldhede of tekortkominge te wees of hom of haar as sodanig voor te doen; 35
 - (e) gebruik maak van die naam tradisionele gesondheidspraktisyn, student, geneser of dokter of enige naam, titel, beskrywing of simbool wat aandui, of daarop gemik is om persone te laat aflei, dat hy of sy die houer is van 'n kwalifikasie as 'n tradisionele gesondheidspraktisyn of van enige ander kwalifikasie wat hom of haar in staat stel om liggaamlike gebreke, ongesteldhede of tekortkominge te diagnoseer, behandel of voorkom, of dat hy of sy kragtens hierdie Wet as 'n tradisionele gesondheidspraktisyn of student geregistreer is; 40
 - (f) behalwe ooreenkomstig enige ander reg, deur woord, daad of gedrag hom- of haarself voor te doen as in staat, gekwalifiseerd of bevoeg om liggaamlike gebreke, ongesteldhede of tekortkominge te diagnoseer, te behandel of te voorkom of om enige tradisionele geneesmiddel, stof of ding ten opsigte van sodanige gebreke, ongesteldhede of tekortkominge voor te skryf of te verskaf; of 45
 - (g) (i) kanker, MIV en vigs of enige ander voorgeskrewe terminale siekte diagnoseer, behandel of aanbied om dit te behandel, of behandeling of enige geneesmiddel daarvoor voorskryf; 50
 - (ii) voorgee dat hy of sy in staat is om kanker, MIV en vigs of enige ander voorgeskrewe terminale siekte te behandel of te genees of om behandeling daarvoor voor te skryf; of 55
 - (iii) voorgee dat enige voorwerp, mengsel, tradisionele medisyne of apparaat van waarde is of kan wees vir die verligting, genesing of behandeling van kanker, MIV en vigs of enige ander voorgeskrewe terminale siekte.
- (2) By die toepassing van subartikel (1) sluit “kanker” alle neoplasmas, ongeag hulle oorsprong, met inbegrip van limfoom en leukemie in. 60
- (3) 'n Persoon wat nie as 'n tradisionele gesondheidspraktisyn geregistreer is nie, is aan 'n misdryf skuldig indien hy of sy—

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(a) pretends to be so registered in respect of such occupation; or

(b) uses any name declared by regulation to be a name which may not be used.

(4) A person found guilty of an offence in terms of this section is liable on conviction to a fine or to imprisonment for a period not exceeding 12 months or to both a fine and such imprisonment

(5) This section does not apply to a medical practitioner or dentist contemplated in the Health Professions Act, 1974 (Act No. 56 of 1974).

Payment of annual fees

50. (1) The Minister may, on the recommendation of the Council, by notice in the *Gazette* prescribe a fee to be paid annually to the Council by the registered persons concerned: Provided that in prescribing such fee the Minister on advice by the Council may differentiate between persons according to whether they have been registered before or after a date specified in the notice and may vary the amount of such fee according to whether it is paid before or after a specific date.

(2) If a person who is liable to pay any annual fee prescribed in terms of subsection (1), fails or refuses to pay such fee within the period specified in the notice in question, the Council may recover payment of such fee by action in a competent court.

(3) If a person's name has been removed from the register in terms of this Act he or she must pay the outstanding annual fee before his or her name may be restored to the register.

(4) The Council may, by resolution, in writing, exempt for an indefinite or definite period any registered person specified in the resolution from payment of any annual fee prescribed in terms of subsection (1).

Transitional provisions

51. No person is subject to legal or disciplinary action or to any penalty contemplated in this Act for engaging in traditional health practice during the period of one year following the date of commencement of this Act without being registered to do so.

Short title and commencement

52. This Act is called the Traditional Health Practitioners Act, 2004, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

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- (a) voorgee aldus geregistreer te wees ten opsigte van sodanige beroep; of
 (b) gebruik maak van enige naam wat by regulasie verklaar is as 'n naam waarvan nie gebruik gemaak mag word nie.
- (4) 'n Persoon wat ingevolge hierdie artikel aan 'n misdryf skuldig bevind word, is by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande of met beide 'n boete en sodanige gevangenisstraf. 5
- (5) Hierdie artikel is nie van toepassing op 'n mediese praktisyn of tandarts beoog in die Wet op Gesondheidsberoep, 1974 (Wet No. 56 van 1974), nie.

Betaling van jaargelde

50. (1) Die Minister kan op aanbeveling van die Raad by kennisgewing in die *Staatskoerant* gelde voorskryf wat jaarliks aan die Raad betaal moet word deur die betrokke geregistreerde persone: Met dien verstande dat die Minister by die voorskryf van sodanige gelde op advies van die Raad tussen persone kan onderskei na gelang hulle voor of na 'n datum vermeld in die kennisgewing geregistreer is en die bedrag van sodanige gelde kan laat wissel na gelang dit voor of na 'n bepaalde datum betaal word. 10 15
- (2) Indien enige persoon wat verplig is om enige jaargelde te betaal wat ingevolge subartikel (1) voorgeskryf is, versuim of weier om sodanige gelde te betaal binne die tydperk in die betrokke kennisgewing vermeld, kan die Raad sodanige gelde by wyse van aksie in 'n bevoegde hof verhaal.
- (3) Indien 'n persoon se naam ingevolge hierdie Wet uit die register geskrap is, moet hy of sy die uitstaande jaargelde betaal voordat sy of haar naam in die register herstel kan word. 20
- (4) Die Raad kan by resoluë vir 'n onbepaalde of bepaalde tyd 'n geregistreerde persoon in die resoluë vermeld, skriftelik vrystel van betaling van enige jaargelde ingevolge subartikel (1) voorgeskryf. 25

Oorgangsbepalings

51. Geen persoon is gedurende die tydperk van een jaar na die inwerking-tredingsdatum van hierdie Wet onderworpe aan regs- of tugstappe of enige straf beoog in hierdie Wet vir die beoefening van tradisionele gesondheidspraktyk sonder om geregistreer te wees om dit te doen nie. 30

Kort titel en inwerkingtreding

52. Hierdie Wet heet die Wet op Tradisionele Gesondheidspraktyksyns, 2004, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.