

REPUBLIC OF NAURU

(No. 10 of 1999)

AN ACT

To regulate the practice of health practitioners;
to provide for registration of health practitioners;
to establish a Health Practitioners Registration
Board; and for related purposes.

(Certified: 18 October 1999)



REPUBLIC OF NAURU
HEALTH PRACTITIONERS ACT 1999
(No. 10 of 1999)

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**A BILL
FOR AN ACT**

to regulate the practice of health practitioners; to provide for registration of health practitioners; to establish a Health Practitioners Registration Board; and for related purposes

(Certified: 18 October 1999)

Enacted by the Parliament of Nauru as follows:

SHORT TITLE AND COMMENCEMENT

1. This Act may be cited as the Health Practitioners Act 1999, and shall come into operation on a date to be notified by the Minister by notice in the Gazette.

INTERPRETATION

2. In this Act, unless the context otherwise requires —

“appropriate qualifications” means qualifications appropriate to a class of health practitioner such that a person is entitled to be registered to practise in that class of health practitioner, as established by regulation or, where no regulations have been made, as established by the Board;

“Board” means the Health Practitioners Registration Board established under section 4;

“Chief Nursing Superintendent” means the person for the time being appointed as such, or an equivalent position, under the Public Service Act 1998;

“counsel” means barrister, solicitor or pleader;

“Director of Medical Services” means the person for the time being appointed as such, or an equivalent position, under the Public Service Act 1998;

“health practitioner” means a practitioner of a class required under section 3 to be registered to practise under this Act;

“inquiry” means an inquiry into a complaint against a health practitioner under section 12;

“register” means the register of health practitioners established under section 10;

“Secretary for Health” means the person for the time being appointed as Head of the Department responsible for health matters under the Public Service Act 1998.

CLASSES OF HEALTH PRACTITIONERS

3. (1) The classes of health practitioners required to be registered under this Act are as follows:—

- (a) medical practitioner;
- (b) nurse;
- (c) dentist;

(d) any class of health practitioner declared under subsection (2).

(2) The Minister may, on the recommendation of the Board, by notice in the Gazette declare —

(a) a class of health practitioner for which registration under this Act is required for practice; and

(b) the registration fee for the class of health practitioner so declared.

(3) A declaration under subsection (2) may include details of the qualifications and experience necessary for registration.

THE HEALTH PRACTITIONERS REGISTRATION BOARD

4. (1) The Health Practitioners' Registration Board is established.

(2) The Board shall consist of —

(a) the Secretary for Health *ex officio*, or his nominee, who shall be Chairman; and

(b) the Director of Medical Services *ex officio*, or his nominee; and

(c) the Chief Nursing Superintendent *ex officio*, or his nominee; and

(d) a member of the clergy; and

(e) a representative of the community, who shall be a Nauruan citizen.

(3) The members referred to in subsection (2)(d) and (e) —

(a) shall be appointed by the Minister, with the approval of the Cabinet; and

(b) shall be appointed for a period not exceeding two years; and

(c) are eligible for reappointment; and

(d) may be removed at any time by the Minister for inefficiency, incapacity, misbehaviour or misconduct.

MEETINGS OF THE BOARD

5. (1) The Board shall meet as often as is necessary for the efficient conduct of its business, and at such times and places as the Board determines.

(2) At a meeting of the Board, the quorum shall be three.

(3) Subject to subsection (2), the Board may regulate its own proceedings.

FUNCTIONS OF THE BOARD

6. (1) The functions of the Board are —

(a) to examine applications for registration as health practitioners; and

(b) to register health practitioners in accordance with this Act; and

(c) to make recommendations as to classes of health practitioners to be declared under section 3;

(d) to establish from time to time standards of educational qualifications and experience necessary for registration in classes of health practitioner; and

(e) to establish standards of professional competence and conduct for health practitioners; and

- (f) to review, from time to time as it thinks fit, the professional competence and conduct of any health practitioner; and
- (g) to consider and respond on complaints of professional incompetence or professional misconduct forwarded to it by the resident magistrate under section 12; and
- (h) to appear at and participate in inquiries into complaints of professional incompetence or professional misconduct in accordance with section 12.

(2) For the purposes of carrying out its functions, the Board may —

- (a) make such enquiries as it thinks fit; and
- (b) require information from any person.

APPLICATION FOR REGISTRATION

7. (1) A person who wishes to practise in Nauru as a health practitioner of a class for which registration is required under this Act may apply to the Board for registration.

(2) An application for registration under subsection (1) shall —

- (a) be made in writing in a manner and form determined by the Board; and
- (b) specify the class of health practitioner for which the application is made; and
- (c) be accompanied by evidence of educational qualifications and experience appropriate to the class for which it is made; and
- (d) provide such other information as may be necessary or desirable for the Board to consider in relation to the application.

(3) The Board may require an applicant to provide further and better information in relation to the application.

GRANT OF REGISTRATION

8. (1) A person who satisfies the Board that —

- (a) he is of good character; and
- (b) he holds the appropriate educational qualification or has the appropriate experience; and
- (c) he intends to practise in Nauru; and
- (d) his practice or intended practice is such that it will benefit the Republic and the Nauruan community,

shall, upon payment of any registration fee required under this Act, be registered as a health practitioner in the class for which the application is made.

(2) A person may be registered in more than one class of health practitioner, provided that separate application has been made in accordance with this Act for each class.

(3) Registration may be subject to such limitations, restrictions, terms and conditions as the Board thinks fit in any particular case.

(4) Upon registration, the Board shall grant to each registered health practitioner a certificate of registration in such form as the Board thinks fit.

(5) Unless cancelled under section 11, registration shall remain in force for one year beginning on the day when it is entered in the register, and may be renewed from time to time.

REGISTRATION FEES

9. (1) Subject to subsection (2), the registration fees for classes of health practitioners shall be those set out in Schedule 1, or declared under section 3(2).

(2) A health practitioner practising exclusively in the employment of the Republic is exempt from payment of a registration fee.

(3) A registration fee is not refundable.

REGISTER OF HEALTH PRACTITIONERS

10. (1) The Board shall cause to be kept a register of health practitioners, in such form as it considers necessary or desirable.

(2) The Board shall publish in the Gazette in the month of July in each year a list of all persons registered for the time being in the register of health practitioners, in accordance with the class or classes of practice for which they are registered, and an indication of any special limitations, restrictions, terms or conditions of registration.

(3) Where a person's name is entered in or deleted from the register, the Board shall publish in the Gazette a notice of the entry or deletion, and in the case of a deletion the notice shall include a statement of the reason for the deletion.

SUSPENSION AND CANCELLATION OF REGISTRATION

11. (1) Where a person is suspended from practice under section 13, a notation of the suspension shall be made in the register, and the Board shall publish in the Gazette a notice of the suspension and its duration.

(2) Where a person registered under section 8 —

(a) dies; or

(b) applies in writing to the Board for cancellation of his registration; or

(c) fails to pay any registration fee which is due and payable; or

(d) is ordered under section 13 to be struck off the register; or

(e) is ordered under section 15(2) to be deleted from the register; or

(f) otherwise ceases to be qualified for any reason to be entered in the register,

his registration shall be cancelled and his name deleted from the register, together with a notation of the reason for the deletion.

COMPLAINT AGAINST HEALTH PRACTITIONER

12. (1) Any person who considers that a person practising as a health practitioner has been guilty of professional incompetence or professional misconduct may make a written complaint to the resident magistrate, who shall send a copy of the complaint to the Board.

(2) Upon receipt of the copy of a complaint under subsection (1), the Board shall send to the resident magistrate an opinion as to whether or not the conduct complained of, if proved, would constitute professional incompetence or professional misconduct.

(3) Where the resident magistrate, after taking into account the opinion of the Board under subsection (2), considers that the conduct complained of —

(a) if proved, would not constitute professional incompetence or professional misconduct; or

(b) is of a minor character only; or there are extenuating circumstances such that it would not be appropriate to proceed to inquiry under this section;

he shall inform the complainant accordingly, but in all other cases, the resident magistrate shall hold a formal inquiry into the complaint.

(4) Where the Board considers that a person practising as a health practitioner has been guilty of professional incompetence or professional misconduct, it may make a written complaint to the resident magistrate, who shall hold a formal inquiry into the complaint.

(5) An inquiry shall be held *in camera*.

(6) At an inquiry —

- (a) the complainant; and
- (b) the person against whom the complaint is made; and
- (c) where the complainant is not the Board — a representative of the Board,

and their counsel, if any, shall be entitled to be present throughout the inquiry and to adduce evidence, including the examination and cross-examination of witnesses, and to address the resident magistrate in respect of complaint.

RESULT OF INQUIRY

13. (1) Where as a result of an inquiry the resident magistrate considers that the person against whom the complaint is made has been guilty of professional incompetence or professional misconduct, he shall, unless he considers that the conduct complained of was of such a minor character or occurred in such extenuating circumstances that it would not be appropriate to do so, order any one or more of the following:—

- (a) a reprimand;
- (b) payment to the Republic of a penalty not exceeding \$5,000;
- (c) payment of compensation, according to expert assessment or any established scales of compensation for the time being pertaining in the Republic, to a person injured by the conduct complained of;
- (d) that the person against whom the complaint is made be suspended from practice as a health practitioner for such period, not exceeding two years, as the resident magistrate thinks fit;
- (e) that the name of the person against whom the complaint is made be struck off the register of health practitioners.

(2) An order made under subsection (1) does not derogate from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than by virtue of this Act.

(3) A penalty ordered under subsection (1)(b) may be recovered by the Republic as a civil debt.

(4) Where a person whose name is ordered struck off under subsection (1)(e) is registered as a health practitioner in more than one class of health practitioner, the order may be made either generally or only in the class of health practitioner in respect of which the complaint is made.

(5) An order may be made under subsection (1)(e) for the striking off of a person's name from the register notwithstanding that, before the order is made, his name has already been deleted from the register under section 11.

APPEALS

14. A person aggrieved by a decision of the resident magistrate under this section may appeal to the Supreme Court in accordance with the Appeals Act 1972, as if the decision were a final decision of the District Court.

OFFENCES

15. (1) A person who practises as a health practitioner in Nauru, whether alone or with others —

- (a) without being registered for the time being as a health practitioner in the appropriate class under this Act; or
- (b) while suspended from practice under section 13; or
- (c) in contravention of any limitation, restriction, term or condition of his registration;

is guilty of an offence and is liable to a penalty of a fine not exceeding \$5,000.

(2) The Court convicting a person of an offence under subsection (1)(b) or (c) may, in addition to or instead of ordering a penalty of a fine, order that the person's name is deleted from the register.

(3) A person who, without being registered for the time being in the appropriate class of health practitioner, in any manner holds himself out to be or pretends to be or makes use of any words or description implying that he is —

- (a) a health practitioner; or
- (b) is entitled to practice, whether alone or with others, as a health practitioner,

of a kind for which registration is required under this Act, is guilty of an offence and is liable to a penalty of a fine not exceeding \$1,000.

REGULATIONS

16. The Cabinet may make regulations not inconsistent with this Act prescribing all matters necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular prescribing matters for and in relation to —

- (a) appropriate qualifications for classes of health practitioners; and
- (b) standards of health practice; and
- (c) standards of professional competence and conduct of health practitioners; and
- (d) rules of professional conduct for health practitioners.

SCHEDULES

SCHEDULE 1

(Section 7)

REGISTRATION FEES

Class of Health Practitioner	Registration Fee
Medical Practitioner	\$100 per annum
Nurse	\$10 per annum
Dentist	\$100 per annum

I hereby certify that the above is a fair print of a Bill for an Act entitled **Health Practitioners Act 1999**, that has been passed by Parliament of Nauru and is now presented to the Speaker for his Certificate under Article 47 of the Constitution.



Clerk of Parliament
18th October 1999

Pursuant to Article 47 of the Constitution, **I, LUDWIG D. KEKE**, Speaker of Parliament, hereby certify that the **Health Practitioners Act 1999** has been passed by Parliament of Nauru.



Speaker
18th October 1999