

HOUSE OF REPRESENTATIVE

A BILL ENTITLED

AN ACT to establish a council of nursing, midwifery and community health nursing to make provision for the education training, registration and discipline of nurses and other matters connected therewith.

ENACTED by the parliament of The Gambia

Nurses and Midwives Act 1989

1. The Act may be cited as the Nurses and Midwives Act, 1989.

INTERPRETATION:

2. in this Act, unless the context otherwise requires- “approved training institution” includes a hospital, health centre and such similar institution in the Gambia as the council may by rules approve and which provides a course of training in nursing, midwifery or community health nursing;

Chairman: means the chairman of the council;

Council: means the Nurses and Midwives council established under section 3 (1);

Education establishment: means a higher education establishment in the Gambia other than any approved training institution which provides a course of training recognized by the council;

Enrolled Community Health Nurse: means a person who is enrolled as such under section (16) (1) (e);

Enrolled Midwife: means a person who is enrolled as such under section 16 (1) (d);

Enrolled Nurse: means a person who is enrolled as such under section 16 (1) (b);

Health region: means the existing health regions;

Minister: means the Minister responsible for the administration of this Act;

Private practice: in relation to a nurse or midwife means otherwise than as an employee of the Gambia government;

Register: means the register maintained under Part III of this Act;

Registered Midwife: means a person who is registered as such under section 16 (1) (a);

Registered Nurse: means a person who is registered as such under section 16 (1) (a);

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Registered: means the person appointed as such under section 8 (1); and
Traditional birth attendant: means a person who has successfully completed prescribed training courses to deliver babies and has his name entered into the register of traditional birth attendant.

PART II- THE NURSES AND MIDWIVES COUNCIL ESTABLISHMENT OF COUNCIL:

3. (1) There is hereby established a council to be known as the Nurses and Midwives Council

(2) The council shall be a corporate body having perpetual succession and a common seal, and may sue and be sued in its corporate name.

(3) The Council may require, hold, alienate, mortgage, let, and hire property, movable and immovable and enter into such contract as may be expedient.

4. (1) The council shall consist of: -

(a) Two nurses in public service from each health region elected by the body of nursing personnel in that region;

(b) Two members of the public not registered or holding any qualification registerable under this Act to be appointed by the Minister; and

(c) Two representatives from the Gambia Nurses and Midwives Association appointed by the Association at a general meeting; and

(d) One principal tutor from an education establishment to be elected by the body of tutors.

(2) The members of the council shall elect; from among the nurses themselves, a chairman and a vice-chairman;

(3) The Attorney –General and Minister of Justice shall appoint a Legal Practitioner of at least four years standing who shall serve as legal adviser to the council and the disciplinary committee.

(4) A member of the council elected under subsection (1)(a) shall cease to be member if he ceases to work in the health region from which he was elected.

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FUNCTIONS OF THE COUNCIL

The functions of the council are:

- (a) To advise the Minister on matters concerning the profession of nursing and midwifery;
- (b) To regulate the profession and practice of nursing and midwifery;
- (c) To maintain and improve standards of training and professional conduct for nurses and midwives;
- (d) To prescribe and regulate courses of instruction and training in the education establishments;
- (e) To ensure that standards of training for nurses and midwives meet the community requirements of the country;
- (f) To keep and maintain a register of nurses and midwives; and
- (g) To publish annually in the Gazette the names and particulars of nurses and midwives entered in the register.

6. MEETINGS

- (1) The council shall, in the performance of its functions, meet at such times and places as it chooses, but shall in any case meet at least once every three months.
- (2) The quorum at every meeting of the council shall be six.
- (3) The chairman shall preside every meeting at which he is present.
- (4) Where for any reason the chairman is absent from a meeting the Vice-chairman shall preside and in the absence of the vice-chairman the members present shall elect one of their members to preside.

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(5) The validity of proceedings of the council shall not be affected by reason of a defect in the election or appointment of a member of the council.

(6) The chairman may at any time convene a special meeting of the council and shall, if requested by notice in writing signed by not less than two-third of the members of the council, convene a meeting within fourteen days.

(7) Subject to the provisions of this the council shall determine and regulate its own rules and procedure.

7. TENURE

(1) The members of the council shall hold office for a period of three years effective from the date the council first meets and may, at the expiration of such term, be eligible for re-appointment or re-election, as the case may be.

(2) Where the office of a member falls vacant otherwise than by the expiry of his term of office or where a member is for any reason incapable of performing his duties the Minister.

(a) May in the case of an appointed member, appoint another person to hold office for the remainder of the unexpired term of office of such person; or

(b) Shall, in the case of an elected member, order that a by-election be held in respect of the position for which a vacancy occurs.

(3) The chairman and any member may, by writing under his hand addressed to the Registrar, resign from his office.

(a) May in the case of an appointed member, appoint another person to hold office for the remainder of the unexpired term of office of such person; or

(b) Shall, in the case of an elected member, order that a by-election be held in respect of the position for which a vacancy occurs.

(4) Where disciplinary proceedings are instituted against a member under PART IV of this Act he shall forthwith cease to hold office.

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8. OFFICERS OF THE COUNCIL

(1) The council shall appoint a registered nurse with at least five years post registration experience to be Registrar of the council.

(2) The Registrar shall be secretary to the council and shall keep a minute book in which he shall record the minutes of meetings and transactions of the council.

(3) The council may appoint a person to be treasurer to the council and where no such appointment is made the registrar shall act as treasurer.

(4) The council may, in the execution of its functions, appoint such other person as may be necessary.

(5) The officers of the council and such other person as may be appointed under subsection (4) shall be paid by the council from its funds.

9 MIDWIFERY COMMITTEE

(1) There shall be established by the council a midwifery committee comprising not more than five persons one of whom shall be practicing midwife in private practice.

(2) The majority of the members of the committee shall be practicing midwives.

(3) The committee shall discharge such functions as may be delegated to it by the council, but it shall in any case be consulted on all matters relating to midwifery.

10. AD HOC COMMITTEE

(1) The council may establish Ad hoc committee empowering them to assist the council in the performance of its duties and in particular with respect to such matters is:

- i. Training
- ii. Clinical nursing studies and researchers
- iii. Psychiatric nursing
- iv. Paediatric nursing

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- v. Public health nursing and
- vi. Private nursing

11. FINANCE COMMITTEE

(1) The council shall establish a Finance Committee which will be responsible for advising the council on all matters relating to finance.

(2) The committee shall comprise not more than five persons three of whom shall be members of the council.

12. FUNDS OF THE COUNCIL

The funds of the council shall:

- (a) Consist of government subventions as may be appropriated to it and such grants, donations, fees and subscriptions as may be made or payable to it; and
- (b) Be kept in such bank as may be appointed by the council.

13. ACCOUNTS AND AUDIT:

(1) The Council shall:

- (a) In the conduct of its business, keep proper accounts which shall be audited annually by the Auditor General; and
- (b) Within three months after the end of the financial year, provide the Minister with the audited statement of accounts.

(2) The Minister shall, as soon as practicable, lay before House of Representative the audited statement of accounts.

PART III – THE REGISTER

14. REGISTER

- (1) The council shall maintain a register of qualified nurses and midwives.
- (2) The register shall be divided into such parts as the council may, on consultation with the Minister determine.

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15. APPLICATION:

A person who seeks to have his name in the register shall make an application in writing addressed to the registrar, and shall:

- (a) Set out his qualification and the institution from which he had qualified;
and
- (b) Produce testimonials sufficient to satisfy the council that he is a person of good character.

16. ADMISSION TO REGISTER

(1) A person shall be qualified to have his name in the register and to practice;

(a) As a Registered Nurse if:

- 1) He has successfully completed a prescribed course of training in an education establishment recognized by the council; or
- 2) He is registered to practice nursing in a jurisdiction recognized by the council;

(b) As an Enrolled Nurse if:

- 1) He has successfully completed practical course of training in nursing recognized by the council.
- 2) He is enrolled to practice nursing in a jurisdiction recognized by the council;

(c) As Registered Midwife if:

- 1) He has successfully completed a prescribed midwifery educational programme recognized by the council; or
- 2) He is registered to practice midwifery in a jurisdiction recognized by the council;

(d) As Enrolled Midwife if:

- (1) He has successfully completed practical course of training in midwifery recognized by the council; or
- (2) He is enrolled to practice nursing in a jurisdiction recognized by the council;

(e) As an Enrolled Community Health Nurse if:

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- (1) He has successfully completed practical course of training in community health nursing recognized by the council.
- (2) He is enrolled to practice community health nursing in a jurisdiction recognized by the council;

(2) Where the council is of the opinion that an applicant does not have qualifications sufficient to satisfy the requirements for admission under subsection (1), it may recommend that the applicant sit for additional examinations or undergo further training for such period as the council may determine.

17. ISSUE OF CERTIFICATION:

The council shall, upon admission of a person to the register, issue that person with a practicing certification and such certification shall be conclusive of evidence of the facts stated in it.

PART IV – DISCIPLINARY PROCEEDINGS

18 DISCIPLINARY COMMITTEE:

- (1) The council shall establish a Disciplinary committee which shall consist of:
 - (a) The chairman of the council as chairman of the committee;
 - (b) Two registered nurses and a registered midwife each of whom must have at least five years post qualification experience and must not have been guilty of any breach of discipline.
 - (c) A person who is not registered or holding any qualifications registerable under this act; and
 - (d) The registrar who shall be the secretary of the committee.
- (2) A person appointed to serve on the committee shall hold office for three years effective from the date of appointment and shall at the expiration of the three years be eligible for re-appointment.
- (3) Where the chairman or the vice-chairman, as the case may be, or any member is for any reason unable to attend the proceedings of the committee, the council shall, from among its members, appoint a person to act in the place of the chairman or such member.

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19. FUNCTIONS OF THE DISCIPLINARY COMMITTEE

- (1) The disciplinary committee shall deal with all matters relating to professional misconduct referred to it by the council.
- (2) Where a case of professional misconduct against any person is referred to the disciplinary committee, it shall:-
 - (a) Conduct an enquiry into such allegation;
 - (b) Direct and investigation into any alleged breach of discipline in respect of such person; and
 - (c) After hearing all the evidence in such case, submit its findings and recommendations to the council.

20. PROCEDURE FOR INSTITUTING DISCIPLINARY PROCEEDINGS

- (1) Where it comes to the notice of the council that a registered person:
 - (a) Has been negligent in the performance of his duty;
 - (b) Has been convicted of an offence relating directly or indirectly to the practice of his profession;
 - (c) Has been disqualified from practicing as a nurse or midwife, or by whatever name called in any jurisdiction;
 - (d) Has through some fraudulent means been registered under this Act; or
 - (e) Has committed any other serious breach of professional conduct;

It shall, as soon as practicable, punish that person in writing with the details of the alleged misconduct requesting him to submit, within fourteen days, a written reply thereto.

- (2) The council may, upon receipt of the reply under subsection (1) decides to refer any matter to the disciplinary committee.
- (3) Where the council decided to refer any matter to the disciplinary committee; it shall:

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- (a) Draft a charge listing out the alleged case of misconduct committed; and
- (b) Furnish the person affected with a copy of the draft charge at least seven days before he is due to appear before the disciplinary committee.
- (4) Where a person fails to submit a reply in accordance with subsection (1), the council shall cause him to appear before the disciplinary committee.
- (5) Where disciplinary proceedings are instituted against a person such person shall stand suspended from practicing until his case is finally disposed of and in the case of an appeal, until a decision is made thereon.

21. ORDERS OF DISCIPLINARY COMMITTEE

The disciplinary committee may, in the conduct of its proceedings;

- (a) Order the attendance of any person as a witness; or
- (b) Order a person who has in his possession books or other documents that may be relevant to the proceedings to produce such books or documents for use by the committee.

22. RECOMMENDATION BY DISCIPLINARY COMMITTEE

- (1) Where in disciplinary proceedings ; the disciplinary committee finds a person guilty of misconduct, it may recommend to the council that;
 - (a) Such person be reprimanded; or
 - (b) Such person be suspended from practicing for a period of not less than six months; or
 - (c) The name of such person be struck off the register for a period of not less than one year.
- (2) Where the disciplinary committee makes a recommendation to the council, the council may accept and act on or vary the recommendation, but shall, in any case, not vary the recommendation to enhance the punishment so recommended.

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(3) The disciplinary committee shall cause a notice of its findings and recommendations to be served on the person to whom it relates.

(4) Where the disciplinary committee finds a person not guilty of misconduct, it shall recommend that the person be discharged and the council shall so obliged.

23. APPEAL

(1) A person who is not satisfied with a decision of the council may, within thirty days after being notified of the decision, appeal to the supreme court.

(2) No appeal shall lie on the decision of the supreme court.

24. COUNCIL TO ORDER FURTHER TRAINING

(1) Where a person:

(a) Who has been suspended from practicing; or

(b) Whose name has been struck off the register.

(c) Completed his period of suspension or has his name restored to the register, as the case may be, the council shall order that such person undergo refresher course for such period as the council may determine.

(2) Notwithstanding subsection 22 (4) the council may on the recommendation of the disciplinary committee, direct that a person against whom disciplinary proceedings have been brought and found not guilty, undergo further training for such period as the council may determine.

25. REPRESENTATION BY LEGAL PRACTITIONER

A person against whom disciplinary proceedings are being instituted shall be entitled to be represented by a legal practitioner of his choice.

PART V – MISCELLANEOUS

26. NOTICE OF PRIVATE PRACTICE

Where a nurse or midwife registered under this Act is in private practice, he shall, within one month after changing his place of practice, notify the registrar of such change.

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27. TRADITIONAL BIRTH ATTENDANT

The council may train and recognize any person as a traditional birth attendant who shall perform such duties as the council may prescribe.

28. TRANSITIONAL PROVISIONS

A person who, prior to the coming into force of this Act, is qualified to practice nursing, midwifery or community health nursing in the Gambia or in a jurisdiction recognized by the council shall, within five months of the coming into force of this Act, be entitled upon application to be registered under Part III.

29. OFFENCES

(1) A person commits offence if he:

- (a) Engage a nurse or midwife who is not registered under this Act;
- (b) Falsely assumes the name of title of a nurse or midwife; or
- (c) Falsely represents himself, by word or conduct, to be nurse or midwife; or
- (d) Be any title or description false implies that he is registered under this Act; or
- (e) For the purpose of registration knowingly makes a false statement; or
- (f) Practices or holds himself out to practice after he has been suspended or his name struck off the register.

(2) A person who commits an offence under this Act shall be liable on conviction to fine not exceeding two thousand Dalasis or to imprisonment for a term not exceeding two years, to both such fine and imprisonment.

30. RULES

The council makes rules:

- (a) Prescribing the standard of training and examinations to be undertaken by a person with a view to registration;
- (b) Requiring a nurse or midwife to give notice of his intention to practice privately;
- (c) Requiring a nurse or midwife to attend from time to time such courses of instruction as it may deem necessary;

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- (d) Recognizing qualification from certain jurisdictions;
- (e) Prescribing fees for registration;
- (f) Prescribing the form of the certification;
- (g) Altering and correcting entries in the register; and
- (h) Regulate generally the practice of nursing, midwifery and community health nursing.

31. REGULATIONS:

The Minister may make regulations for the better carrying into effect of the purpose of this Act.

32. REPEAL AND

(1) The Midwives Act (Cap. 119) and the Nurses Act (No. 15 of 1970) are hereby repealed.

(2) Notwithstanding subsection (1) any rules or regulations made under the Midwives Act. (Cap. 119) and the nurses Act, 1970 (No. 15 of 1970) shall, until repealed, continue to have force with such modification as may be necessary to avoid inconsistency with this Act.

OBJECTS AND REASONS

In order to develop and strengthen the Nursing profession in the Gambia, to provide the level and standard of services required by the community; is considered both necessary and opportune to established a Nurses and Midwives Council with powers to regulate and direct the practice of Nurses and midwives generally.

The council will have the sole responsibility for setting the qualifications and standards required for appointment to all cadres of the nursing and midwifery profession. i.e. State Registered Nurse/midwife, state enrolled nurse/midwife, enrolled community health nurse. The Traditional Birth Attendants have been included because of the very important role they play at primary level, and

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village based services in the rural communities. Traditional Birth Attendants are responsible 50% of all deliveries throughout the country. Because of the sensitive and important role they perform it is therefore necessary that their training and practice should be closely monitored and supervised for the benefit of all parties concerned, the provisions of the draft bill are divided into five parts. The first part deals with the requisite definitions; Part 2 covers the composition, functions, the committees and officers of the council. Part 3 covers the process for registration and certification and part 4 the procedures for the institution of disciplinary action against nurses and midwives. Part 5 contains miscellaneous provisions pertaining to certain general requirements.

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