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Arrangement of Sections

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No. 9 of 2023

NURSES AND MIDWIVES ACT, 2023

AN ACT TO EXPAND THE PRACTICE OF NURSING AND MIDWIFERY; TO CONTINUE THE NURSING COUNCIL OF THE COMMONWEALTH OF THE BAHAMAS; TO PROVIDE FOR THE TRAINING, REGULATION, REGISTRATION AND LICENSING OF REGISTERED NURSES, MIDWIVES AND ADVANCED PRACTICE NURSES; TO PROVIDE FOR THE TRAINING, REGULATION, ENROLLMENT AND LICENSING OF LICENSED PRACTICAL NURSES; TO PROVIDE FOR THE REGULATION OF NURSE INTERNS; TO PROVIDE FOR THE REGULATION OF UNLICENSED ASSISTIVE PERSONNEL; TO PROVIDE FOR THE REGULATION, REGISTRATION AND LICENSING OF NURSING AGENCIES; TO REPEAL THE NURSES AND MIDWIVES ACT, 1971 AND FOR CONNECTED PURPOSES

[Date of Assent - 13th June, 2023]

Enacted by the Parliament of The Bahamas

PART I – PRELIMINARY

1. Short title and commencement.

(1) This Act may be cited as the Nurses and Midwives Act, 2023.

(2) This Act shall come into force on such date as the Minister may appoint by Notice, published in the *Gazette* and a notice may appoint different dates for different provisions or for different purposes of the same provision.

2. Interpretation.

In this Act —

"advanced practice nurse" means a registered nurse who —

(i) has acquired, through additional education, the expert knowledge base, complex decision-making skills and clinical competencies for expanded nursing practice,

(ii) has attained the qualifications referred to under section 18, and

(iii) is registered and licensed by the Council;

"approved institution" means an institution approved by the National Accreditation and Equivalency Council of The Bahamas and endorsed by the Council to conduct an approved nursing programme;

"bye-laws" means any bye-laws made under this Act;

"Caribbean Examinations Council" means an examination body that works in collaboration with the Regional General Nursing Council to develop and administer the Regional Examination for Nurse Registration;

"Chairman" means the Chairman of the Council;

"clinical nurse specialist" means an advanced practice nurse who provides direct clinical care in a specialised area of nursing practice and —

(i) has passed the programme or examination set or recognised by the Council,

(ii) has attained the qualifications referred to under section 18, and

(iii) is registered and licensed by the Council to practice as a clinical nurse specialist;

"committee" means a committee established by the Council;

"Council" means the Nursing Council of The Commonwealth of The Bahamas continued under section 6;

"Council examination" means the Nursing Council Final Examination for Enrollment or Registration;

"Director" means the Director of Nursing or the Chief Nurse in the Ministry of Health;

"financial year" means the period of twelve months ending on the 30th day of June each year;

"graduate specialty nurse" means a registered nurse who has successfully completed an approved masters or doctoral nursing degree programme in a specialty from an approved institution;

"impairment" means any —

(a) altered state; or

(b) loss or abnormality of psychological, physiologic, or anatomic structure or function and includes mental and physical disability, injury, physical illness or chemical dependence;

"indictable offence" has the meaning assigned to it under the Penal Code (*Ch. 84)*;

"intra-partum period" means the period from the onset of labour to the end of the third stage of labour;

"Joint Commission" means the Joint Commission on Nurse Practitioners established under section 67;

"licensed practical nurse" means a person who —

(i) has completed an approved programme of study of a minimum of eighteen months from an approved institution,

(ii) has passed the prescribed examination set or recognised by the Council, and

(iii) is enrolled and licensed by the Council;

"medical practitioner" has the meaning assigned to it under the Medical Act, 2014;

"midwife" means a registered nurse who —

(i) has successfully completed an approved midwifery programme based on the International Council of Midwives Essential Competencies for Basic Midwifery Practice and the framework of the International Council of Midwives Global Standards for Midwifery Education,

(ii) has attained the qualifications referred to under section 18 and the competence to practice midwifery,

(iii) uses the title midwife, and

(iv) is registered and licensed by the Council;

"midwifery" means the practice of assisting a woman during pre-partum, intra-partum and post-partum periods and includes reproductive health;

"Minister" means the Minister responsible for Health;

"nurse" means a person who has completed a programme of basic or generalised nursing education and is authorised by the Council to practice nursing;

"nurse anaesthetist" means an advanced practice nurse who —

(a) has successfully completed an approved nurse anaesthesia programme;

(b) has attained the qualifications referred to under section 18; and

(c) is registered and licensed by the Council,

and —

(i) works in collaboration with surgeons, anaesthesiologists, dentists, podiatrists, and other qualified professionals to ensure the safe administration of anaesthesia,

(ii) provides pain management and assists with stabilisation services, and

(iii) oversees patient recovery through all phases of surgery and, during diagnostic, obstetrical and therapeutic procedures;

"nurse intern" means a graduate nurse who has successfully completed an approved programme of study from an approved institution in The Bahamas, but has not successfully completed the Council examination;

"nurse practitioner" means an advanced practice nurse who —

(i) has successfully completed a nurse practitioner advanced course or degree from an approved institution,

(ii) is trained in the advanced assessment of the physical and psychosocial health-illness status of individuals, families, or groups in a variety of settings through health and development, history taking and physical examination,

(iii) in collaboration and consultation with a medical practitioner, assesses, diagnoses, treats and manages the care of, a patient or client, and

(iv) is registered and licensed by the Council;

"Nurse Practitioner Drug Protocol" means The Nurse Practitioner Drug and Device Protocol which stipulates the circumstances and conditions under which a nurse practitioner is authorised to prescribe, give a written or verbal instruction to administer, or supply medicines or medical devices within the scope of practice, educational preparation and competency;

"nursing agency" means a business that —

(a) engages licensed practical nurses, registered nurses, midwives or advanced practice nurses, and unlicensed assistive personnel to provide home-based health care

services consistent with their scope of practice to patients or clients; and

(b) is owned and operated by a registered nurse, midwife or advanced practice nurse;

"nursing personnel" means a licensed practical nurse, registered nurse, midwife or advanced practice nurse;

"nursing student" means a person who is enrolled in an approved nursing programme at an approved institution;

"pre-partum period" means the period during pregnancy;

"post-basic specialty nurse" means a registered nurse who has successfully completed an approved post-basic nursing specialty programme from an approved institution;

"post-partum period" means the six-to-eight week period after delivery;

"Prescribers' Formulary for Nurse Practitioners" means the list of drugs and medical device formulary —

(a) designed for use by nurse practitioners in their respective fields of practice; and

(b) approved by the Council;

"register" means the —

(i) Register of Registered Nurses,

(ii) Register of Nurse Practitioners,

(iii) Register of Nurse Anaesthetists,

(iv) Register of Clinical Nurse Specialists,

(v) Register of Midwives;

"registered nurse" means a person who —

(i) has completed an approved nursing degree from an approved institution,

(ii) has passed the prescribed examination set or recognised by the Council, and

(iii) is registered and licensed by the Council;

"Registrar" means the person appointed under section 10;

"roll" means the Roll of Licensed Practical Nurses;

"student midwife" means a registered nurse who is enrolled in an approved midwifery programme;

"Tribunal" means the Nursing Appeal Tribunal continued under section 70;

"unlicensed assistive personnel" means a patient care assistant, a nursing auxillary or any other personnel who assists with basic patient care

under the supervision of a registered nurse or an advanced practice nurse.

3. The practice of nursing.

For the purposes of this Act, the **"practice of nursing"** means —

(a) the application of specialised and evidence-based knowledge of nursing theory, health and human sciences, inclusive of principles of primary health care, in the provision of professional services to a broad array of patients or clients ranging from stable or predictable to unstable or unpredictable;

(b) assessing the patient or client to establish his or her state of health and wellness;

(c) identifying the nursing diagnosis based on the patient or client assessment and analysis of all relevant data and information;

(d) developing and implementing the nursing component of the patient or client plan of care;

(e) co-ordinating patient or client care in collaboration with other health care disciplines;

(f) monitoring and adjusting the plan of care based on patient or client responses;

(g) evaluating the patient's or client's outcomes;

(h) such other roles, functions and accountabilities within the scope of practice of the profession that support patient or client safety and quality care to —

(i) promote, maintain or restore health,

(ii) prevent illness and disease,

(iii) manage acute illness,

(iv) manage chronic disease,

(v) provide palliative care,

(vi) provide rehabilitative care,

(vii) provide guidance and counselling, and

(viii) make referrals to other health care providers and community resources; and

(i) any research, education, consultation, management, administration, regulation, policy or system development relevant to paragraphs (b) to (h).

4. The practice of nurse practitioner.

For the purposes of this Act, the **"practice of nurse practitioner"** means —

(a) the application of advanced nursing knowledge, skills and judgment in addition to the practice of nursing, where a nurse practitioner in collaborative practice may, in accordance with standards for nurse practitioners and in consultation with a medical practitioner —

(i) conduct patient or client, group and population assessments,

(ii) make a diagnosis identifying a disease, disorder or condition,

(iii) communicate the diagnosis to the patient or client, and health care professionals as appropriate,

(iv) perform therapeutic procedures within the nurse practitioner's scope of practice,

(v) initiate consultations or make referrals and other acts,

(vi) order and interpret screening and diagnostic tests, and recommend, prescribe or reorder drugs, blood, blood products and related paraphernalia, and

(vii) manage case loads and chronic cases; and

(b) any research, education, consultation, management, administration, regulation, policy or system development relevant to paragraph (a).

5. The practice of midwifery.

For the purposes of this Act, the **"practice of midwifery"** means —

(a) within or outside a hospital setting, the —

(i) assessment and monitoring of the health of a mother and her baby during the pre-partum, intra-partum and post-partum period,

(ii) provision of care in the normal course of the pre-partum, intra-partum and post-partum period,

(iii) management of vaginal deliveries,

(iv) ordering and interpreting of screening and diagnostic tests, and recommending or administering of drugs restricted to actual delivery and care, blood products and related paraphernalia in regard to the provision of care in the normal course of the pre-partum, intra-partum and post-partum period, and

(v) invasive procedures restricted to actual delivery and care, as prescribed; and

(b) any research, education, consultation, management, administration, regulation, policy or system development relating to paragraph (a).

PART II – CONTINUANCE OF THE NURSING COUNCIL OF THE COMMONWEALTH OF THE BAHAMAS

6. Continuance of the Council.

(1) The body known and existing as the Nursing Council of The Commonwealth of The Bahamas immediately before the commencement of this Act, is hereby continued as a body corporate by that name with perpetual succession and a common seal, with power to acquire, hold and dispose of land and other property of whatever kind, and to sue and be sued.

(2) Notwithstanding subsection (1), the Council shall not dispose of any land without the prior approval of the House of Assembly signified by resolution thereof.

(3) The First Schedule shall give effect to the constitution and procedure of the Council.

7. Common seal.

The common seal of the Council shall —

(a) be kept in the custody of the Council or the Registrar and shall be affixed to instruments in the presence of the Chairman and Registrar;

(b) be authenticated by the signatures of the Chairman or any other member of the Council authorised by the Council in that behalf, and of the Registrar; and

(c) when affixed to any document and authenticated, be judicially and officially noticed, and, until the contrary is proved, any necessary authorisation of the Council for that document shall be presumed to have been given.

8. Functions of the Council.

The functions of the Council are to —

(a) establish the qualifications, standards of education, training and practice for nursing personnel;

(b) control the education, training, practice, registration or enrollment, and licensing of nursing personnel;

(c) monitor education, training and practice in nursing and midwifery;

(d) consider the health and well-being of persons who require nursing or midwifery services as paramount;

(e) consider the interests of licensed practical nurses, registered nurses, student midwives, midwives and advanced practice nurses, and any other profession that is referred to under this Act;

(f) ensure that the standards of professional conduct are adhered to by nurse interns, licensed practical nurses, registered nurses, student midwives, midwives and advanced practice nurses;

(g) ensure —

(i) continuing professional development of nursing personnel in the practice of nursing, and

(ii) competency in the practice of nursing and midwifery;

(h) determine continuing professional development credits and requirements for nursing personnel;

(i) prescribe codes of conduct for nursing personnel;

(j) collaborate with —

(i) employers of nursing personnel,

(ii) educational institutions who provide training for nursing personnel, and

(iii) national, regional and international professional and regulatory bodies;

(k) control the training and practice of unlicensed assistive personnel;

(l) determine continuing education requirements for unlicensed assistive personnel;

(m) consider the interests of unlicensed assistive personnel, nursing students and nurse interns;

(n) establish the standards, and regulate and monitor the operations, of nursing agencies;

(o) grant certificates of enrollment or registration, and licenses to nursing personnel;

(p) issue letters of authorisation to nurse interns;

(q) record unlicensed assistive personnel;

(r) grant certificates of registration, and licenses to nursing agencies;

(s) maintain an electronic database on the enrollment or registration, licence, location, professional activities of nursing personnel and any other information as determined by the Council;

(t) investigate professional conduct, or the competency, of nursing personnel to practise nursing and midwifery;

(u) investigate the conduct of unlicensed assistive personnel;

(v) investigate the operations of nursing agencies;

(w) advise the Minister on matters pertaining to this Act; and

(x) carry out any other function conferred on the Council under this Act.

9. Duties and powers of the Council.

(1) The Council shall, after consultation with the Minister —

(a) establish and carry out the policies of the Council;

(b) develop codes of conduct for nursing personnel; and

(c) set standards relating to the practice of nursing and midwifery.

(2) The Council may, with the prior approval of the Minister, make bye-laws prescribing the policies, administrative and domestic affairs of the Council.

(3) The Council shall have such powers that are necessary to perform its duties under this Act.

10. Appointment of Registrar, Deputy Registrar and other staff.

(1) The Minister may appoint a Registrar and a Deputy Registrar.

(2) The Registrar shall be responsible for the management of the Council, and if the Registrar is absent, or for any reason unable to perform the functions of the Registrar's office, the Deputy Registrar shall act as Registrar.

(3) The Deputy Registrar shall assist the Registrar with the discharge of the Registrar's duties under this Act.

(4) The Council may —

(a) appoint such other staff at such remuneration and on such terms and conditions; and

(b) engage under a contract of service such professional, technical and other assistance,

as the Council considers necessary to carry out its functions.

11. Duties of the Registrar.

The duties of the Registrar are to —

(a) issue certificates of enrollment, registration and good standing, and letters of authorisation;

(b) maintain the roll and registers;

(c) amend the roll or register to reflect changes in addresses, qualifications or other particulars relating to licensed practical nurses, registered nurses, midwives and advanced practice nurses;

(d) issue licenses;

(e) keep record of post-basic specialty nurses and graduate specialty nurses;

(f) keep record of unlicensed assistive personnel;

(g) keep record of registered and licensed nursing agencies;

(h) add names to the roll or register;

(i) remove from the —

(i) roll, the name of a licensed practical nurse who is deceased or no longer qualified to practise nursing in The Bahamas, or

(ii) register, the name of a registered nurse, midwife or advanced practice nurse who is deceased or no longer qualified to practise nursing or midwifery in The Bahamas;

(j) collect the prescribed fees; and

(k) carry out any other duty conferred on the Registrar under this Act or any regulations or bye-laws made under this Act.

PART III – FINANCIAL PROVISIONS

12. Funds and resources of the Council.

The funds and resources of the Council shall consist of —

(a) such sums as may be provided by Parliament;

(b) all fees and charges payable to the Council; and

(c) all other sums or property which may in any manner become payable to or vested in the Council in respect of any matter incidental to its functions.

13. Bank account.

The Council shall —

(a) open and maintain a bank account;

(b) assign, as signatories on the bank account —

(i) the Chairman,

(ii) the Registrar, and

(iii) the Treasurer,

and any two of the three signatories assigned may sign off on any withdrawal from the bank account; and

(c) ensure that all sums received by, or on behalf of, the Council are deposited to the bank account.

14. Accounts and audit.

(1) The Council shall keep proper records in relation to the accounts, and shall prepare in respect of each financial year, a statement of accounts.

(2) The accounts of the Council for each financial year shall be audited annually by auditors appointed by the Council with the approval of the Minister from among members of The Bahamas Institute of Chartered Accountants.

(3) The Council shall, three months after the end of each financial year, submit a copy of the audited accounts to the Minister, together with a copy of the report made by the auditor.

(4) The Minister shall cause a copy of the annual financial statement of accounts together with the auditor's report to be laid before both chambers of Parliament.

15. Budget estimates and annual report.

(1) The Council shall prepare for each financial year an annual budget of revenue and expenditure.

(2) The annual budget referred to under subsection (1), shall be submitted to the Minister three months before the beginning of the financial year.

(3) The Council shall, three months after the end of each financial year, submit to the Minister a report of its activities, accompanied by a statement of its expenditure and revenue.

(4) The Minister shall cause a copy of the report of the Council to be laid before both chambers of Parliament.

PART IV – QUALIFICATIONS

16. Qualifications of licensed practical nurse.

A person is qualified to be enrolled as a licensed practical nurse, if the person —

(a) holds a certificate from an approved institution; and

(b) satisfies the Council that the person —

(i) has met the minimum standard for practice as approved by the Council,

(ii) can read, write, speak and understand English or has sat and passed a minimum English proficiency standard examination, and

(iii) is fit to practise nursing in The Bahamas;

(c) complies with any other requirements for enrollment under this Act or any regulations or bye-laws made under this Act.

17. Qualifications of registered nurse.

A person is qualified to be registered as a registered nurse, if the person —

(a) holds a Bachelor of Science in Nursing degree from an approved institution; and

(b) satisfies the Council that the person —

(i) has met the minimum standard for practice as approved by the Council,

(ii) can read, write, speak and understand English or has sat and passed a minimum English proficiency standard examination, and

(iii) is fit to practise nursing in The Bahamas;

(c) complies with any other requirements for registration under this Act, or any regulations or bye-laws made under this Act.

18. Qualifications and categories of advanced practice nurse.

(1) The Council shall register a registered nurse as an advanced practice nurse, if the nurse —

(a) holds a masters degree in a category referred to under subsection (2) from an approved institution; or

(b) provides proof of advanced certification in a category referred to under subsection (2) from an approved institution; and

(c) satisfies the Council that the person —

(i) has met the minimum standard for practice as approved by the Council,

(ii) can read, write, speak and understand English or has sat and passed a minimum English proficiency standard examination;

(d) complies with any other requirements for registration under this Act, or any regulations or bye-laws made under this Act.

(2) The categories of the advanced practice nurse are as follows —

(a) nurse practitioner;

(b) nurse anaesthetist;

(c) clinical nurse specialist;

(d) midwife.

19. Cancellation, etc. of qualification.

A licensed practical nurse, registered nurse, midwife or advanced practice nurse shall give written notice to the Registrar —

(a) if a qualification, that enabled that nurse to be enrolled or registered by the Council, is withdrawn or cancelled by the institution that conferred the qualification; and

(b) within thirty days of such withdrawal or cancellation.

PART V – ENROLLMENT, REGISTRATION, RECORDING, LICENSING, ETC

DIVISION 1 - ENROLLMENT

20. Enrollment.

(1) No person shall practise as a licensed practical nurse in The Bahamas unless that person is enrolled under this Act.

(2) A person who wishes to be enrolled as a licensed practical nurse shall apply to the Council in the prescribed manner.

(3) An applicant shall submit together with the application referred to under subsection (2) —

(a) evidence of the applicant's qualifications;

(b) proof of the applicant's identity as prescribed;

(c) proof of enrollment or registration with the Nursing Council or Board in the country where that applicant was trained, if applicable;

(d) proof that the applicant is of good character;

(e) a certificate of good standing from the applicant's previous Nursing Council or Board, if applicable; and

(f) such other particulars as determined by the Council.

(4) Where the Council receives an application referred to under subsection (2), and is satisfied that the applicant is qualified pursuant to section 16 to be enrolled as a licensed practical nurse, the Council may, upon payment of the prescribed fee —

(i) grant a certificate of enrollment in the prescribed form, and

(ii) cause the applicant to be enrolled in the relevant section of the roll, subject to such restrictions and conditions as the Council considers necessary.

(5) The Council may request additional information from the applicant, if further information is required to make a determination for enrollment.

(6) The Council shall make a determination relating to the applicant's qualification for enrollment and notify the applicant, in writing, of that determination —

(a) within ninety days of the submission to the Council by the applicant of the requested information; or

(b) after ninety days from the date when the request was made, if the Council has not received the requested information.

(7) If a certificate of enrollment has been lost, destroyed or defaced, the Council or Registrar may issue a duplicate certificate upon the written request of the holder of the certificate and payment of the prescribed fee.

21. Duration of enrollment.

The enrollment of a licensed practical nurse shall continue in force except the enrollment has been revoked.

22. Refusal to grant enrollment.

The Council may refuse to grant enrollment to an applicant on the grounds that the —

(a) applicant does not qualify for enrollment under this Act;

(b) conduct of the applicant is such that it would not be in the public interest for the applicant to be enrolled as a licensed practical nurse;

(c) applicant has a physical or mental condition, which significantly impairs the applicant's ability to practise nursing; or

(d) applicant was previously enrolled or registered as a licensed practical nurse in another country, and the enrollment or registration was cancelled on grounds that would justify cancellation in The Bahamas.

23. Reconsideration for enrollment.

(1) If the Council refuses to enroll an applicant, the applicant may, within three months of the receipt of the notice of refusal, apply to the Council in writing for reconsideration of its decision.

(2) The Council may —

(a) allow or deny the application for reconsideration; and

(b) if the application under subsection (1) is allowed, grant or refuse enrollment.

24. Revocation of certificate of enrollment.

The Council may revoke the certificate of enrollment of a licensed practical nurse, if the Council is satisfied that the nurse —

(a) does not qualify for enrollment; or

(b) is disqualified from enrollment by any of the grounds referred to under section 22 (b), (c) or (d),

and the name of that nurse shall be removed from the roll.

25. Roll.

(1) The Council shall cause the Registrar to keep a roll of licensed practical nurses.

(2) The roll shall contain the following particulars relating to the licensed practical nurse —

(a) full name;

(b) date of birth;

(c) personal address;

(d) the date of enrollment;

(e) a description and the date of the qualifications which the nurse possesses on the date of enrollment; and

(f) such other particulars as the Council may determine.

(3) The roll referred to under subsection (1) shall be kept in the office of the Registrar and shall at all reasonable times be available for inspection by the public during business hours.

(4) A nurse referred to under subsection (1) shall inform the Registrar of any change in address or any other particulars.

26. Removal of name from roll.

(1) Where the name of a licensed practical nurse is removed from the roll, that nurse ceases to be enrolled under this Act.

(2) The Council shall —

(a) publish, by notice in the *Gazette,* the removal of the name of a licensed practical nurse; and

(b) in writing, require the licensed practical nurse to return to the Council the certificate and licence within the period of time specified.

27. Restoration of name to roll.

Where a licensed practical nurse's name has been removed from the roll, the Council shall restore the name of the nurse to the roll, if the Council is satisfied that —

(a) any conduct that had been the cause of the suspension or cancellation has ceased;

(b) any fees owed has been paid in full;

(c) any condition imposed by the Council to cause a restoration of the enrollment has been discharged; or

(d) the nurse has satisfied all of the requirements for enrollment under this Act.

DIVISION 2 – REGISTRATION

28. Registration.

(1) No person shall practise as a registered nurse, midwife or advanced practice nurse in The Bahamas unless that person is registered under this Act.

(2) A person who wishes to be registered as a registered nurse, midwife or advanced practice nurse shall apply to the Council in the prescribed manner.

(3) An applicant shall submit together with the application referred to under subsection (2) —

(a) evidence of the applicant's qualifications;

(b) proof of the applicant's identity as prescribed;

(c) proof of registration with the Nursing Council or Board in the country where that applicant was trained;

(d) proof that the applicant is of good character;

(e) a certificate of good standing from the applicant's previous Nursing Council or Board; and

(f) such other particulars as determined by the Council.

(4) Where the Council receives an application referred to under subsection (2), and is satisfied that the applicant is qualified pursuant to section 17 or 18, to be registered as a registered nurse, midwife or advanced practice nurse, the Council may, upon payment of the prescribed fee —

(i) grant a certificate of registration in the prescribed form, and

(ii) cause the applicant to be registered in the relevant section of the register, subject to such restrictions and conditions as the Council considers necessary.

(5) The Council may request additional information from the applicant, if further information is required to make a determination for registration.

(6) The Council shall make a determination relating to the applicant's qualification for registration and notify the applicant, in writing, of that determination —

(a) within ninety days of the submission to the Council by the applicant of the requested information; or

(b) after ninety days from the date when the request was made, if the Council has not received the requested information.

(7) If a certificate of registration has been lost, destroyed or defaced, the Registrar may issue a duplicate certificate upon the written request of the holder of the certificate and payment of the prescribed fee.

29. Duration of registration.

The registration of a registered nurse, midwife or advanced practice nurse, shall continue in force except the registration has been revoked.

30. Refusal to grant registration.

The Council may refuse to grant registration to an applicant on the grounds that the —

(a) applicant does not qualify for registration under this Act;

(b) conduct of the applicant is such that it would not be in the public interest for the applicant to be registered as a registered nurse, midwife or advanced practice nurse;

(c) applicant has a physical or mental condition, which significantly impairs the applicant's ability to practise nursing or midwifery; or

(d) applicant was previously registered as a registered nurse, midwife or advanced practice nurse in another country, and the registration was cancelled on grounds that would justify cancellation in The Bahamas.

31. Reconsideration for registration.

(1) If the Council refuses to register an applicant, the applicant may, within three months of the receipt of the notice of refusal, apply to the Council in writing for reconsideration of its decision.

(2) The Council may —

(a) allow or deny the application for reconsideration; and

(b) if the application under subsection (1) is allowed, grant or refuse registration.

32. Revocation of certificate of registration.

The Council may revoke the certificate of registration of a registered nurse, midwife or advanced practice nurse, if the Council is satisfied that the nurse —

(a) does not qualify for registration; or

(b) is disqualified from registration by any of the grounds referred to under section 30 (b), (c) or (d),

and the name of that nurse shall be removed from the register.

33. Register.

(1) The Council shall cause the Registrar to keep a register of registered nurses, midwives or advanced practice nurses.

(2) The register shall contain the following particulars relating to the registered nurse, midwife or advanced practice nurse —

(a) full name;

(b) date of birth;

(c) personal address;

(d) the date of registration;

(e) a description and the date of the qualifications which the nurse possesses on the date of registration; and

(f) such other particulars as the Council may determine.

(3) The register referred to under subsection (1) shall be kept in the office of the Registrar and shall at all reasonable times be available for inspection by the public during business hours.

(4) A nurse referred to under subsection (1) shall inform the Registrar of any change in address or any other particulars.

34. Removal of name from register.

(1) Where the name of a registered nurse, midwife or advanced practice nurse is removed from the register, that nurse ceases to be registered under this Act.

(2) The Council shall —

(a) publish by notice in the *Gazette,* the removal of the name of the registered nurse, midwife or advanced practice nurse; and

(b) in writing, require the registered nurse, midwife or advanced practice nurse to return to the Council the certificate and licence within the period of time specified.

35. Restoration of name to register.

Where a registered nurse, midwife or advanced practice nurse's name has been removed from the register, the Council shall restore the name of the nurse to the register, if the Council is satisfied that —

(a) any conduct that had been the cause of the suspension or cancellation has ceased;

(b) any fees owed has been paid in full;

(c) any condition imposed by the Council to cause a restoration of the registration has been discharged; or

(d) the nurse has satisfied all of the requirements for registration under this Act.

36. Temporary, provisional or special registration.

(1) The Council or Registrar may register, temporarily, for a period not exceeding six months, on payment of the prescribed fee, a person who —

(a) applies to the Council for temporary registration; and

(b) satisfies the Council that he is residing temporarily in The Bahamas and qualifies for registration under this Act.

(2) The Council or Registrar may register, provisionally, a person who has —

(a) complied with section 28;

(b) satisfied the qualification requirements under section 17 or 18; and

(c) been offered employment for a specific period in a hospital or health care facility in The Bahamas.

(3) The Council or Registrar may specially register a person to practise nursing or midwifery for a period not exceeding three years, if the Council is satisfied that the person is qualified under this Act and that the person is —

(a) doing special work in the field of public health or research and is sponsored in respect of such work by educational facilities approved by the National Accreditation and Equivalency Council of The Bahamas, or international, regional, or inter-governmental organisations approved by the Minister, after consultation with the Council;

(b) a registered nurse, midwife or advanced practice nurse, who is employed, on a full-time basis by an international organisation that has an office in The Bahamas, to render nursing services exclusively and without a fee to members of that organisation; or

(c) employed on a full-time basis in the private sector, public service or the Public Hospitals Authority under the supervision of a nursing supervisor.

(4) The Council or Registrar may specially register a person who is required to give nursing aid in cases of emergency, for a period not exceeding thirty days, if the Director is satisfied that the person possesses the requisite qualifications to be registered under this Act.

(5) The Council may renew the registration of a person registered under this section for such further period as the Council may determine.

(6) A person who is registered under subsections (3)(a) or (b) and (4) shall not pay the prescribed registration fee.

37. Registration of long standing advanced practice nurses.

(1) On the commencement of this Act, the Council may, on a case by case basis, deem the advanced practice nurse to be eligible for registration, where the advanced practice nurse has not completed the requisite advanced certification or degree but satisfies the Council that the nurse has the requisite experience, skill and competence in the practice of nursing or midwifery.

(2) The nurse referred to under subsection (1) shall, upon payment of the prescribed fee, be registered as an advanced practice nurse.

DIVISION 3 - EXAMINATION

38. Examination of applicant.

(1) The Council may require the applicant for enrollment or registration to sit an examination in such subjects as the Council considers necessary, if in relation to the application for —

(a) enrollment as a licensed practical nurse; or

(b) registration as a registered nurse, midwife or advanced practice nurse,

the Council is —

(i) satisfied with the applicant's qualifications under section 16(b), 17(b) or 18(1)(c), but is of the opinion that the applicant's qualification under section 16(a), 17(a) or 18(1)(a) and (b) is not evidence of satisfactory nursing or midwifery training, or

(ii) not satisfied with the applicant's qualifications under section 16, 17 or 18.

(2) For the purposes of subsection (1), the Council shall —

(a) appoint a body to be called the Examination Committee ("Committee") consisting of a minimum of three nurses or midwives; or

(b) designate the Regional General Nursing Council in collaboration with the Caribbean Examinations Council,

to set and conduct examinations in such subjects as the Council may determine.

(3) Notwithstanding subsection (1), the Council may require —

(a) any applicant for enrollment or registration in any part of the register, to prove the applicant's competency in nursing by examination conducted by the Committee and, if required, to undergo such further training as the Council may specify;

(b) any regional or international nurse applying for enrollment or registration to sit an examination conducted by the Committee.

(4) The Council shall fix a time and place for holding an examination and notify the applicant of the time and place.

(5) The applicant shall, upon payment of the prescribed fee, be permitted to take the examination referred to under subsection (l) or (3).

(6) The Committee or Caribbean Examinations Council shall, as soon as practicable after the examination, submit a report of the results of the examination to the Council.

39. Enrollment or registration after Council examination.

(1) If the report of the Committee or Caribbean Examinations Council indicates that an applicant is sufficiently informed and skilled in the subjects in which the applicant was examined, the applicant may be regarded as having satisfied the Council that the applicant is qualified to be —

(a) enrolled as a licensed practical nurse; or

(b) registered as a registered nurse, midwife or advanced practice nurse.

(2) If the Committee or Caribbean Examinations Council reports to the Council that an applicant was unsuccessful in the examination, the Council shall not permit the Committee or Caribbean Examinations Council to conduct any further examination of the applicant until —

(a) the expiration of at least six months from the date of the examination in which the applicant was unsuccessful; or

(b) the applicant has complied with such conditions as the Council may determine.

DIVISION 4 - RECORDING

40. Recording of unlicensed assistive personnel.

(1) A person who —

(a) applies to the Council to be recorded as an unlicensed assistive personnel; and

(b) satisfies the Council that the person —

(i) is fit to practise as an unlicensed assistive personnel,

(ii) has a high school diploma or its equivalent and has completed a course of training approved by the Council and passed the appropriate examination,

(iii) has a minimum of four Bahamas Junior Certificates inclusive of English, Mathematics and a Science with C or above grades or its equivalent,

(iv) can read, write, speak and understand English, and

(v) any other particulars as the Council may determine,

and upon payment of the prescribed fee, is entitled to be recorded as an unlicensed assistive personnel.

(2) An unlicensed assistive personnel shall not carry out any procedure for which he or she has not been trained and without supervision.

(3) An unlicensed assistive personnel shall —

(a) provide evidence of completion of continuing education requirements as prescribed each year to be recorded;

(b) re-apply to be recorded as an unlicensed assistive personnel before the 31st day of December each year.

(4) An unlicensed assistive personnel's name may be removed from the record, if the unlicensed assistive personnel —

(a) is guilty of misconduct;

(b) has an impairment which affects the ability to practice;

(c) fails to comply with this Act; or

(d) is convicted of an indictable offence and sentenced to imprisonment.

DIVISION 5 - LICENSING

41. Licence.

(1) No person shall practise nursing or midwifery in The Bahamas without a valid licence granted under this Act.

(2) A person who wishes to be licensed by the Council shall —

(a) be enrolled or registered under this Act; and

(b) apply to the Council in the prescribed form.

(3) The Council may, on receipt of the application referred to under subsection (2) and payment of the prescribed fee, grant a licence in the prescribed form.

(4) A licence shall be valid for one year.

(5) Notwithstanding subsection (3), the Council may grant a special licence to a person registered under section 36(3)(a) or (b) and (4) without payment of the prescribed fee.

(6) If a licence has been lost, destroyed or defaced, the licence may be replaced by the Council upon the written application of the holder of the licence and payment of the prescribed fee.

(7) The Council shall cause to be published annually in the *Gazette,* after the 31st day of January, a list of the licensed practical nurses, registered nurses, midwives or advanced practice nurses, licensed under this Act.

42. Renewal of licence.

(1) A licensed practical nurse, registered nurse, midwife or advanced practice nurse referred to under section 41 shall, before the 31st day of December each year, apply in writing to the Council for a renewal of licence.

(2) The Council may renew the licence of a licensed practical nurse, registered nurse, midwife or advanced practice nurse, if the Council is satisfied that the nurse meets the requirements under this Act and —

(a) provides evidence of completion of continuing professional development requirements as prescribed;

(b) provides a valid work permit, if applicable;

(c) on payment of the prescribed fee; and

(d) is fit to practice nursing in The Bahamas.

(3) If the licensed practical nurse, registered nurse, midwife or advanced practice nurse does not satisfy the Council that the nurse has met the requirements under subsection (2)(a), the Council may renew the licence on condition that the nurse satisfies the requirements within a specified period.

(4) A licensed practical nurse, registered nurse, midwife or advanced practice nurse who fails to pay the annual renewal licence fee, thirty days after the expiration date of the licence, or such longer period as the Council may determine, in any year, shall in respect of the licence for that year pay to the Registrar, in addition to the annual renewal licence fee, a sum equal to that fee.

43. Suspension of licence.

A licence may be suspended by the Council, if the licensed practical nurse, registered nurse, midwife or advanced practice nurse —

(a) is charged with an indictable offence;

(b) is guilty of professional misconduct; or

(c) has an impairment which affects the ability to practice nursing or midwifery.

44. Cancellation of licence.

A licence may be cancelled by the Council, if —

(a) the application made under section 41, contains any material misrepresentation;

(b) any information given in the application made under section 41 was materially incorrect to create a false impression of the licensed practical nurse, registered nurse, midwife or advanced practice nurse and the nurse's qualifications; or

(c) the licensed practical nurse, registered nurse, midwife or advanced practice nurse is convicted of any offence under this Act or an indictable offence.

45. Letter of authorisation for graduate nurse or nurse intern.

(1) No graduate nurse ("nurse intern") shall practise unless the graduate nurse is in receipt of a letter of authorisation to practice (referred to as a "Graduate Nurse Letter).

(2) A graduate nurse shall apply to the Council for a Graduate Nurse Letter as prescribed.

(3) The Council may issue a Graduate Nurse Letter on such terms and conditions as specified in the letter.

(4) The Graduate Nurse Letter shall be valid for the period specified in the letter and may be reissued for two consecutive terms after the initial letter but shall not exceed eighteen months.

(5) A Graduate Nurse Letter issued under subsection (3) —

(a) authorises the graduate nurse to practise under the direct supervision of a registered nurse in a hospital setting or community clinic; and

(b) shall be revoked, if the graduate nurse —

(i) fails to comply with any requirements under this Act,

(ii) is charged with an indictable offence,

(iii) is guilty of misconduct, or

(iv) has an impairment which affects the ability to practise.

(6) A graduate nurse shall, within six months of the receipt of a Graduate Nurse Letter, attempt the Council's examination.

(7) Where a graduate nurse fails —

(a) to attempt the Council's examination within twelve months of the issue of the Graduate Nurse Letter, the Council may revoke the letter;

(b) the Council's examination after the graduate nurse's third attempt, the Council shall require the graduate nurse to complete an approved remedial nursing programme as prescribed before applying for registration.

(8) For the purposes of this section, **"graduate nurse"** means a person who has completed an approved programme of study from an approved institution but has not completed the requirements for a licensed practical nurse or a registered nurse.

PART VI – REGISTRATION AND LICENSING OF NURSING AGENCIES

46. Registration of nursing agencies.

(1) No registered nurse, midwife or advanced practice nurse shall operate a nursing agency in The Bahamas, unless that nursing agency is registered under this Act.

(2) A person who, on the date of the commencement of this Act, is the owner or operator of a nursing agency, and the agency is not registered with the Council, shall apply within thirty days after that date to register the nursing agency in accordance with this Act.

(3) The Council shall grant a certificate of registration for the nursing agency in the prescribed manner and form, if the Council is satisfied that the —

(a) premises or facilities are fit for the purpose of operating a nursing agency;

(b) nursing agency operates in a manner that is conducive to the interest of public health and safety and in keeping with best practices of the nursing profession;

(c) owner of the nursing agency has a minimum of five years experience as a practising registered nurse;

(d) owner of the nursing agency holds professional indemnity insurance; and

(e) prescribed fee is paid,

and where there is more than one location, each location of the nursing agency shall be separately registered.

(4) The certificate of registration shall be displayed in a conspicuous place in the nursing agency.

(5) The Council may at any time revoke the certificate of registration of a nursing agency for non-compliance with this Act.

(6) If the certificate of registration has been lost, destroyed or defaced, the certificate may be replaced by the Council upon the written application of the holder of the certificate and payment of the prescribed fee.

(7) The certificate of registration shall not be transferred or assigned.

(8) The certificate of registration of a nursing agency shall continue in force except the registration has been revoked.

(9) The holder of the professional indemnity insurance shall inform the Registrar if the insurance is cancelled or if there are any changes in the terms and conditions of the insurance within fourteen days of the cancellation or change.

(10) A person who fails to comply with subsections (1), (4), (7) and (9) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

47. Refusal of application.

(1) The Council shall, prior to the refusal of an application for registration —

(a) give the nursing agency written notice of its intention; and

(b) state the reasons for the refusal.

(2) The notice referred to under subsection (1)(a), shall state that within twenty-one days of service of the notice, the nursing agency may make representation in writing or otherwise to the Council concerning the matter.

(3) The Council shall not determine the matter without considering the submissions from the nursing agency within the twenty-one day period or such longer period as the Council may determine.

48. Grounds for refusal.

The Council may refuse an application for registration of a nursing agency on the ground that —

(a) the applicant is not a proper person for such registration;

(b) there is no need or demand for the nursing service proposed in the application;

(c) the equipment, organisation and staffing arrangements of the agency to which the application relates are inadequate; or

(d) the premises on which the agency is, or would be, located are unsuitable.

49. Revocation of registration of nursing agency.

(1) The Council may revoke the certificate of registration of a nursing agency, if the business of that nursing agency is conducted in a manner contrary to this Act or in such manner that the revocation is required in the interest of public health or safety.

(2) The Council shall, prior to the revocation referred to under subsection (1), give the owner of the nursing agency fourteen days notice of its intention.

(3) The notice referred to under subsection (2) shall state the grounds for the revocation and require the owner to show cause why the certificate of registration should not be revoked.

(4) Where the Council, after giving the owner an opportunity to show cause, revokes the certificate of registration of a nursing agency, the Council shall —

(a) direct the Registrar to remove the name of that agency from the record; and

(b) send written notice of the revocation to the owner,

and the business of that nursing agency shall cease until the name of that agency is restored to the record.

50. Licence of nursing agency.

(1) No registered nurse, midwife or advanced practice nurse shall operate a nursing agency unless that agency is licensed under this Act by the Council.

(2) The Council shall, upon payment of the prescribed fee, grant a licence in the prescribed form.

(3) The licence shall —

(a) be valid for one year and where there is more than one location, each location shall be separately licensed;

(b) be displayed in a conspicuous place in the nursing agency; and

(c) not be transferred or assigned.

(4) The Council may at any time suspend or cancel the licence of a nursing agency for non-compliance with this Act.

(5) If a licence has been lost, destroyed or defaced, the licence may be replaced by the Council upon the written application of the holder of the licence and payment of the prescribed fee.

(6) The Council shall cause to be published annually in the *Gazette* after the 31st day of January, a list of all nursing agencies recorded.

(7) A person who fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

51. Renewal of licence of nursing agency.

(1) An application for renewal of licence of a nursing agency shall be made in the prescribed form and not later than thirty days after the 31st day of December, each year.

(2) The Council may, on receipt of the application and, payment of the prescribed fee, renew the licence.

(3) An owner of a nursing agency who fails to pay the annual renewal licence fee, thirty days after the expiration date of the licence in any year, shall in respect of the licence for that year pay to the Registrar, in addition to the annual renewal licence fee, a sum equal to that fee.

52. Notice of establishment of nursing agency.

A registered nurse, midwife or advanced practice nurse shall inform the Council of that nurse's intention to establish a nursing agency.

53. Notice of change of address.

If a registered nurse, midwife or advanced practice nurse —

(a) intends to change the office address of the nursing agency, the nurse shall inform the Registrar of that nurse's intention; and

(b) has changed the office address of the nursing agency, that nurse may post a sign outside the premises of the former office for a period of thirty days.

54. Recording of nursing agencies.

The Council shall keep and maintain a record of all licences for nursing agencies issued each year.

55. Records to be kept by nursing agency.

A registered nurse, midwife or advanced practice nurse carrying on the business of a nursing agency shall —

(a) keep and maintain records of the following particulars —

(i) the name, address and telephone number of nursing personnel and unlicensed assistive personnel,

(ii) the qualifications of the nursing personnel and unlicensed assistive personnel employed by the agency, and the institution where the nursing personnel and unlicensed assistive personnel were trained or obtained qualifications,

(iii) the name and address of the patients or clients assigned to the nursing personnel and unlicensed assistive personnel, the job

description of the nursing personnel and unlicensed assistive personnel, and the dates of the assignment,

(iv) evidence of referral of clients to the agency by a medical practitioner or nurse practitioner, where the nursing agency is not own by a nurse practitioner,

(v) any treatment carried out or any referral made by the nursing personnel to a medical practitioner in respect of a client to whom the nursing personnel was assigned,

(vi) any complaint relating to, or any accident or incident involving, the nursing personnel or unlicensed assistive personnel, in the exercise of the nursing personnel's or unlicensed assistive personnel's duties during the assignment,

(vii) the maximum number of clients who would be under the care or supervision of the nursing personnel or unlicensed assistive personnel, at the same time, during the assignment, and

(viii) such other matters as the Council considers necessary; and

(b) submit on the request of the Council, a report of the activities of the nursing agency in respect of the year immediately preceding the date of the request.

56. Appointment of inspectors.

(1) For the purposes of this Act, the Minister may, after consultation with the Council, appoint officers trained in nursing or midwifery to be inspectors.

(2) An inspector may enter and inspect any nursing agency —

(a) if there is reasonable grounds to believe that the nursing agency is being operated in contravention of this Act; or

(b) for the purposes of —

(i) investigating complaints concerning the operation of any nursing agency, or

(ii) annual inspection of a nursing agency to determine compliance with this Act.

(3) An inspector or person assigned to assist the inspector who has a direct or indirect pecuniary interest in the nursing agency shall, as soon as possible, disclose the nature of his or her interest to the Council, and that inspector or person shall not be permitted to inspect the nursing agency for which he or she has a pecuniary interest.

(4) An inspector shall be issued a certificate of identity and the inspector shall produce the certificate on entering the nursing agency.

(5) An inspector may —

(a) require the production of records or other documents required to be kept pursuant to this Act or regulations made under this Act; and

(b) make copies of such records or documents.

57. Offence to obstruct inspectors.

(1) An owner or operator of a nursing agency shall cooperate with an inspector in the exercise of his or her duties under this Act.

(2) An owner, operator or any other person who —

(a) obstructs the inspector in the exercise of his or her duties;

(b) refuses to provide information or produce any document when required to do so by the inspector; or

(c) knowingly or intentionally supplies false or misleading information to the inspector,

commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

58. Power of Minister to suspend operations of nursing agency.

(1) Notwithstanding sections 49 and 50(4), the Minister, acting on the advice of the Council that a nursing agency is operating in a manner that is detrimental to public health or public safety, may by Order published in the *Gazette*, suspend with immediate effect the operation of that nursing agency.

(2) The Minister shall within seventy-two hours after suspending the operation of a nursing agency, inform the owner of the agency of any conditions that must be complied with prior to revoking the Order made under subsection (1).

(3) A person who fails to comply with an Order made pursuant to subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

PART VII - PROFESSIONAL RESPONSIBILITY AND CONDUCT OF NURSE INTERN, LICENSED PRACTICAL NURSE, REGISTERED NURSE, MIDWIFE AND ADVANCED PRACTICE NURSE

59. Prohibition of professional misconduct.

(1) A nurse intern, licensed practical nurse, registered nurse, midwife or advanced practice nurse shall not —

(a) do any act or thing that is contrary to the generally recognised duty and responsibility of the nurse intern, licensed practical nurse, registered nurse, midwife or advanced practice nurse; or

(b) engage in behaviour that is contrary to the code of ethics for nurses or midwives.

(2) The behaviour referred to under subsection (1) includes —

(a) failing to maintain the standards of nursing or midwifery practice;

(b) failing to uphold the code of ethics for nurses or midwives;

(c) abusing a patient or client verbally, physically, emotionally or sexually;

(d) misappropriating personal property, drugs or other property belonging to a patient or client;

(e) inappropriately influencing a patient or client to make or change a Will or power of attorney;

(f) wrongfully abandoning a patient or client;

(g) neglecting to provide care to a patient or client;

(h) failing to exercise appropriate discretion in respect of the disclosure of confidential information;

(i) falsifying records;

(j) inappropriately using professional nursing or midwifery status for personal gain;

(k) promoting for personal gain any drug, device, treatment, procedure, product or service that is unnecessary, ineffective or unsafe;

(l) publishing, or causing to be published, any advertisement that is false, fraudulent, deceptive or misleading;

(m) engaging or assisting in fraud, misrepresentation, deception or concealment of a material fact when applying for or securing enrollment, registration or licence to practise nursing or midwifery or taking any examination provided for under this Act, including using fraudulently procured credentials;

(n) taking or using the designation "licensed practical nurse", "registered nurse", "nurse", "midwife", "advanced practice nurse", or any derivation or abbreviation thereof, or describing the person's activities as "nursing" or "midwifery" in any advertisement or publication, including business cards, websites or signage, unless the referenced activity falls within the definitions of the "practice of nursing", the "practice of nurse practitioner" or the "practice of midwifery" under this Act;

(o) failing to monitor and maintain their own fitness to practise; or

(p) doing or failure to do any act or thing in connection with the nurse or midwife's professional practice which is in the opinion of the Council, unprofessional.

(3) For the purposes of subsection (2)(h), any disclosure which is legally justifiable or required for the treatment of a patient or client shall not be deemed as a wilful or deliberate betrayal of professional confidence.

60. Fitness to practise.

(1) The Council shall, in determining whether a nurse or midwife is or remains fit to practise, have regard to the circumstances, including —

(a) the nurse's or midwife's integrity, probity, competence (application of knowledge and skill), and soundness of judgment for fulfilling his or her role as a nurse or midwife;

(b) whether the interests of the patient or client are likely to be threatened by the nurse or midwife;

(c) the nurse's or midwife's professional conduct;

(d) the nurse's or midwife's physical and mental health;

(e) any other circumstances as determined by the Council.

(2) A nurse's or midwife's fitness to practise may be impaired by the following situations —

(a) illness or injury;

(b) use of substances such as drugs or alcohol;

(c) chronic conditions or disorders;

(d) misconduct;

(e) lack of knowledge, skill and judgment, usually repeated and over a period of time;

(f) convicted of a criminal offence; or

(g) any other situation as may be prescribed.

PART VIII - INVESTIGATION AND DETERMINATION OF THE COUNCIL

61. Complaints.

(1) A person may lodge a complaint to the Council in relation to the unlicensed assistive personnel, nurse intern, licensed practical nurse, registered nurse, midwife or advanced practice nurse.

(2) A complaint made to the Council shall —

(a) be in writing;

(b) be signed and dated by the person making the complaint; and

(c) have the person's name on the complaint.

(3) The Registrar shall notify the person against whom the complaint is made, of the nature of the complaint and request that the person state in writing, within fourteen days or such longer period as the Council may determine, an explanation or a representation of the complaint.

(4) For the purpose of this Part, **"complaint"** means a statement of dissatisfaction or grievance made to the Council alleging misconduct or professional misconduct, as the case may be, on the part of the unlicensed assistive personnel, nurse intern, licensed practical nurse, registered nurse, midwife or advanced practice nurse.

62. Investigation by Council.

(1) The Council shall investigate any matter concerning the —

(a) practice of nursing or midwifery; and

(b) conduct of an unlicensed assistive personnel,

if the Council determines that such an investigation is necessary in the public interest or in the interest of maintaining the standards of nursing or health care.

(2) The Council may —

(a) conduct a formal or informal hearing into the behaviour, or ability to practise, of the unlicensed assistive personnel, nurse intern, licensed practical nurse, registered nurse, midwife or advanced practice nurse; and

(b) investigate a complaint made by a person on any matter relating to the services provided by a nursing agency.

63. Form and conduct of investigation.

(1) An investigation conducted by the Council may be in the form of —

(a) a preliminary investigation;

(b) a review;

(c) an informal hearing; or

(d) a formal hearing.

(2) Subject to section 62(2), an investigation shall be conducted by the Disciplinary and Penal Cases Committee.

(3) Where the Council determines, in relation to an investigation, that special expertise is required, the Council may engage additional persons who possess the requisite skills or expertise to conduct the investigation.

64. Report relating to investigation.

The committee responsible for the conduct of an investigation under section 63 shall submit to the Council, not later than twenty-eight days after the conclusion of the investigation, a report, in writing, stating the —

(a) findings of the committee;

(b) decision of the committee and reasons for the decision; and

(c) recommendations of the committee.

65. Determination of Council.

(1) Subject to subsection (2), upon the receipt of a report relating to an investigation referred to under section 63, the Council shall —

(a) immediately, make a determination relating to the matter, taking into account the report submitted; and

(b) take such action as it considers fair and just in the circumstances.

(2) The Council may invite the unlicensed assistive personnel, nurse intern, licensed practical nurse, registered nurse, midwife or advanced practice nurse, or legal representative to appear before the Council or to provide, in writing, an explanation relating to the matter.

(3) The unlicensed assistive personnel, nurse intern, licensed practical nurse, registered nurse, midwife or advanced practice nurse aggrieved by the decision or action taken by the Council under this Part may appeal against the decision or action to the Tribunal.

PART IX - MISCELLANEOUS

66. Nurse practitioner's prescription.

(1) A nurse practitioner, in writing prescriptions, shall be guided by the Nurse Practitioner Drug Protocol and the Prescribers' Formulary for Nurse Practitioners.

(2) A prescription signed with the name of a licensed nurse practitioner shall be dispensed by a pharmacist registered under the Pharmacy Act (*Ch. 227*).

(3) The prescription referred to under subsection (2) shall include only the drugs that appear in the Nurse Practitioner Drug Protocol and the Prescribers' Formulary for Nurse Practitioners.

(4) An alphabetical list of licensed nurse practitioners shall be sent by the Registrar to licensed health care institutions and registered pharmacies by the 31st day of January, each year.

67. Joint Commission on Nurse Practitioner.

(1) The Minister shall, within six months after the commencement of this Act or at such times as may be expedient, appoint a Joint Commission on Nurse Practitioner to —

(a) review and approve documents, protocols and agreements to be used in the practice of nurse practitioners; and

(b) submit such documents, protocols and agreements to the Council for approval.

(2) The Joint Commission shall consist of —

(a) two nurse practitioners registered and licensed under this Act;

(b) a medical practitioner registered and licensed under the Medical Act;

(c) a pharmacist registered and licensed under the Pharmacy Act (*Ch. 227*);

(d) a representative from the Nursing Council.

(3) The constitution and procedure of the Joint Commission shall be as prescribed in the Joint Commission bye-laws.

68. Directions of Minister.

The Minister may give to the Council directions of a general nature as to the policy to be followed by the Council in the carrying out or in pursuit of its functions as appear to the Minister requisite in the public interest and the Council shall give effect to such directions.

69. Confidentiality.

(1) The unlicensed assistive personnel, nurse intern, licensed practical nurse, registered nurse, midwife and advanced practice nurse employed in a health institution or nursing agency shall preserve and aid in preserving confidentiality with regard to the information obtained in the course of their duties or employment which are related to the affairs of the health institution, nursing agency, patient or client, and shall not disclose such information to any other person except —

(a) as may be required in the course of their duties; or

(b) with the consent of the health institution, nursing agency or patient or client.

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by the person in the course of that person's duties, employment, inquiry or investigation except —

(a) in a proceeding under this Act or regulations made under this Act; or

(b) upon the order of a Judge of the Supreme Court in a matter before the court.

70. Nursing Appeal Tribunal.

(1) The body known and existing as the Nursing Appeal Tribunal immediately before the commencement of this Act is continued.

(2) The Second Schedule shall give effect to the constitution and procedure of the Tribunal.

(3) A person who is aggrieved by a decision of the Council may, within three months of the receipt of written notice, appeal against the decision to the Tribunal.

(4) The Council may, pending the hearing of an appeal referred to under subsection (3), withhold its decision until the determination of the appeal.

(5) A person aggrieved by a decision of the Tribunal may appeal such decision to a Judge of the Supreme Court, but such appeal shall not operate as a stay of the decision of the Tribunal.

71. Regulations.

(1) The Minister may, after consultation with the Council, make regulations generally for the proper carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may, after consultation with the Council, make regulations —

(a) respecting the requirements which shall be satisfied by persons applying for training as advanced practice nurses;

(b) providing guidelines for programmes of study to be followed in the training of licensed practical nurses, registered nurses, midwives and advanced practice nurses;

(c) prescribing the examinations and other requirements to be satisfied, whether in addition, or as an alternative, to the passing of examinations, by persons applying for enrollment or registration;

(d) providing for the performance by persons registered under this Act of delegated medical functions in specific circumstances;

(e) providing for the performance of additional nursing functions that may be performed under any condition authorised by the Council, including emergencies;

(f) prescribing fees for enrollment, registration, recording, licence, examinations, evaluations and any other activity performed by the Council;

(g) prescribing the core standards;

(h) prescribing the code of ethics for nurses, midwives and advanced practice nurses;

(i) respecting continuing professional development and credits;

(j) prescribing the procedure for the conduct of examinations;

(k) prescribing the forms or contents of applications, certificates, licences, registers, roll and other documents required for the purposes of this Act;

(l) respecting the professional qualification and experience required of an applicant for enrollment or registration and licensing;

(m) providing guidelines for the training of unlicensed assistive personnel;

(n) providing guidelines for the practice of nurse interns;

(o) prescribing guidelines for nursing agencies;

(p) prescribing committees including standing committees; and

(q) providing for the procedure for the service of notices and documents under this Act.

(3) Any regulations made by the Minister under subsection (2)(f) shall be exempt from the provisions of section 32 of the Interpretation and General Clauses Act (*Ch.2*) but shall be subject to affirmative resolution of the House of Assembly.

(4) In subsection (3), "affirmative resolution of the House of Assembly" in relation to subsidiary legislation means that such legislation does not come into operation unless and until affirmed by a resolution of that House.

(5) Subject to subsections (1) and (2), regulations made under this Act may prescribe penalties inclusive of a fine not exceeding twenty-five thousand dollars or imprisonment for a term not exceeding two years for contravention of the regulations.

72. Offences and penalties.

(1) A person who —

(a) wilfully procures or attempts to procure enrollment or registration under this Act; and

(b) makes or produces or causes to be made or produced any fraudulent representation or declaration, either verbally, in writing or otherwise,

commits an offence and is liable on conviction to a fine not exceeding twenty thousand dollars or to imprisonment for a term not exceeding two years, or to both.

(2) A person, not being a licensed practical nurse, registered nurse, midwife or advanced practice nurse, who —

(a) uses any name, title, addition or other description implying or calculated to imply that the person is a licensed practical nurse, registered nurse, midwife or advanced practice nurse or that the person is recognised by law as a person authorised and qualified to practise nursing or midwifery;

(b) assumes or uses any title or prefix indicative of any occupational designation relating solely to the practice of nursing or midwifery;

(c) advertises or holds out as a person authorised or qualified to practise nursing or midwifery; or

(d) engages in the practice of nursing, midwifery or nurse practitioner,

commits an offence and is liable on conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding two years, or to both.

(3) Notwithstanding subsection (2)(a), a dental nurse within the meaning of the Dental Act, shall be permitted to use the name or title of nurse but the dental nurse is not a nurse registered or licensed under this Act.

(4) A person commits an offence, where that person —

(a) being a licensed practical nurse, registered nurse, midwife or advanced practice nurse whose enrollment or registration is revoked or licence is suspended or cancelled under this Act, practise as one being so registered or licensed; and

(b) with intent to deceive, makes use of any certificate of enrollment or registration, or licence issued under this Act.

(5) A person who commits an offence under subsection (4) is liable on summary conviction —

(a) in the case of a first offence, to a fine not exceeding five thousand dollars;

(b) in the case of a subsequent offence, to a fine not exceeding ten thousand dollars.

73. Notification of civil action or criminal trial.

(1) If a civil action has been brought against a nursing agency or an advanced practice nurse in independent practice for alleged negligence or failure to provide services in execution of an undertaking, the nursing agency or advanced practice nurse shall immediately notify the Council of —

(a) the action and the status of the action;

(b) if the matter has been concluded by the court, the decision and order of the court; and

(c) if the matter has been concluded by settlement, the terms of the settlement.

(2) A licensed practical nurse, registered nurse, midwife or advanced practice nurse or a representative of the nurse shall immediately notify the Council of that nurse's committal, conviction, discharge or acquittal, where the nurse has been, in respect of an indictable offence —

(a) committed for trial;

(b) convicted of an offence;

(c) discharged or acquitted.

74. Transitional provisions.

(1) On the commencement of this Act —

(a) all assets, rights and liabilities which immediately before that date were assets, rights and liabilities of the Council ("former Council") established under the repealed Nurses and Midwives Act, 1971 ("former Act") shall vest in the Council continued under section 6;

(b) any subsidiary legislation made under the former Act and in force before the commencement of this Act, so far as it is not inconsistent with this Act continues in force as if made under this Act, until similar subsidiary legislation is made under this Act, or revoked;

(c) any legal proceedings commenced by or against the former Council before the commencement of this Act may be continued on or after that date by or against the Council, as if the Council was a party to the proceedings;

(d) any reference to the former Council in any other enactment shall be construed as a reference to the Council;

(e) the Registrar of the former Council shall become the Registrar of the Council, and shall continue in office for the period for which the Registrar was appointed;

(f) the members of the former Council shall become the members of the Council, and shall continue in office for the period for which the members were appointed; and

(g) any document of the former Council, so far as it relates to any period on or after the commencement of this Act, and if not inconsistent with the context or subject matter, shall be taken to be a document of the Council.

(2) In the case of the conduct or activities of a nurse or midwife which occurred before the commencement of this Act, the provisions set out in Part VII applies provided that there was power to institute an investigation or inquiry under the former Act or its regulations into such conduct or activities.

(3) A determination or result of a hearing into the conduct or activities referred to under subsection (2) shall be one that was available as a finding or decision in an investigation or inquiry by the former Council under the former Act.

(4) Where an investigation or inquiry into the conduct or activities of a nurse or midwife under the former Act has been instituted, but has not been completed before the commencement of this Act, the investigation or inquiry, or any appeal or other further proceedings which may have been taken in relation to that investigation or inquiry may be continued as if the Council was a party to the proceedings.

(5) The Council shall give effect to a decision made on an investigation, inquiry or appeal under subsection (4) as if it were a decision made under this Act.

(6) A person who was enrolled or registered under the former Act before the commencement of this Act, shall continue to be so enrolled or registered *mutatis mutandis*.

(7) A person who is enrolled in an Associate of Science in Nursing degree programme at an approved institution before the commencement of this Act or before the 31st day of December, 2022, shall be registered by the Council as a registered nurse on the completion of the programme.

(8) A nursing agency licensed under the former Act or any regulations made under the former Act before the commencement of this Act, shall continue to be so licensed for the duration of the period specified in the licence, and the agency may —

(a) register as a nursing agency under this Act; and

(b) renew the licence,

and Part VI shall apply *mutatis mutandis*.

(9) A reference in any other law to —

(a) a nurse or midwife shall be read and construed as a reference to a nurse or midwife registered under this Act; and

(b) the Nurses and Midwives Act shall be read and construed as a reference to this Act.

75. Consequential amendments.

The enactments specified in the Third Schedule are amended in the manner set out in that Schedule.

76. Act binds the Crown.

This Act binds the Crown.

77. Repeals.

(1) The Nurses and Midwives Act (*Ch. 225*) is repealed.

(2) The Nurses and Midwives (Nurses Agencies) Regulations, 1993 is repealed.

FIRST SCHEDULE

(section 6)

CONSTITUTION AND PROCEDURE OF THE COUNCIL

1. Constitution.

(1) The Council shall consist of eleven members appointed by the Minister, of whom —

(a) one shall be the Director of Nursing, *ex officio*;

(b) four shall be nurses from different categories of nursing including an educator from an approved nursing programme and an advanced practice nurse;

(c) two shall be nurses nominated by the Nurses Association of The Commonwealth of The Bahamas;

(d) one shall be a midwife nominated by the Midwives Association;

(e) one shall be a registered medical practitioner nominated by the Medical Association;

(f) one shall be a counsel and attorney of at least ten years standing at The Bahamas Bar nominated by the Minister; and

(g) one shall be a person nominated by the Minister of Education.

(2) A nurse or midwife shall not be appointed under paragraph (1) (b) or (d) except that nurse or midwife has a minimum of seven years actual, continuous experience in the practice of nursing or midwifery in The Bahamas.

(3) The Minister may appoint the Chairman and the Deputy Chairman from among the members.

2. Tenure of office.

(1) A member of the Council other than the Director of Nursing *ex officio* shall hold office for a term not exceeding three years and shall be eligible for reappointment.

(2) Notwithstanding subparagraph (1), no member of the Council shall hold office for more than six years.

3. Temporary membership.

(1) Where membership of the Council is by an office and the holder of the office is absent or unable to act, then, the person acting in the office shall be a member of the Council for as long as the person acts.

(2) If any member by reason of illness or other incapacity or absence from The Bahamas, is unable at any time to perform the duties of his or her

position, or if the position of a member is at any time vacant, the Minister shall appoint a person to act in place of that member for the remainder of the term, however, such appointment shall be made in the same manner and from the same category of persons, if any, as the member replaced.

4. Resignation.

(1) A member of the Council, other than the Chairman, may at any time resign his or her office by instrument in writing addressed to the Minister and transmitted through the Chairman, and from the date of receipt by the Minister of the instrument, that member shall cease to be a member.

(2) The Chairman may at any time resign his or her office by instrument in writing addressed to the Minister, and the resignation shall take effect from the date of receipt by the Minister of the instrument.

5. Revocation.

(1) The Minister may, by instrument in writing, revoke the appointment of a member of the Council upon being satisfied that the member —

(a) is an undischarged bankrupt;

(b) is incapacitated by physical or mental illness;

(c) has been absent, without leave of the Council, from three or more consecutive meetings of the Council;

(d) has been convicted of an indictable offence; or

(e) is otherwise unable or unfit to discharge the functions of a member of the Council.

(2) Prior to the revocation of the appointment of a member appointed under paragraph 1(c), (d), (e) and (g), the Minister shall consult the Minister of Education and the associations about the revocation.

6. Publication.

The names of all members of the Council as first constituted and every change in the membership shall be published in the *Gazette*.

7. Meetings.

(1) The Council shall meet at least once each month or at such times as may be necessary for the transaction of its business, and such meetings shall be held at such places and times as the Council may determine.

(2) The Chairman may at any time call a special meeting of the Council within seven days of the receipt of a written request for that purpose addressed to the Chairman, by any two members of the Council.

(3) The Chairman shall preside at all meetings of the Council, and the Deputy Chairman shall preside in the Chairman's absence.

(4) If the Chairman and the Deputy Chairman are absent from a meeting, the members present and constituting a quorum shall elect one of their number to preside at that meeting.

(5) The quorum of the Council shall consist of six of its members.

(6) The decision of the Council shall be by a majority of votes, and in addition to an original vote, the Chairman or other person presiding at a meeting shall have a casting vote in any case in which the voting is equal.

(7) Minutes in proper form of each meeting of the Council shall be kept by the Registrar and shall be confirmed by the Council at the next meeting.

(8) The validity of the proceedings of the Council shall not be affected by any vacancy.

(9) Subject to this Act, the Council may regulate its own proceedings.

(10) The Council may invite a person who in the opinion of the Council has expert knowledge concerning any functions of the Council which is likely to be of assistance to attend and participate in any meeting of the Council but the person is not qualified to vote.

8. Committees.

(1) The Council may appoint such committees for the proper carrying out of the functions of the Council, as it considers necessary and may delegate to any committee such functions as the Council may determine.

(2) The composition of each committee shall be as prescribed.

(3) The Council shall establish the following standing committees —

(a) Registration Committee;

(b) Disciplinary and Penal Cases Committee;

(c) Examination Committee;

(d) Education Committee;

(e) Standards and Practice Committee;

(f) Finance Committee.

(4) Each of the standing committees shall have such functions as prescribed.

9. Remuneration.

There shall be paid from the funds of the Council to the Chairman and other members of the Council such remuneration whether by way of honorarium or allowances, as the Minister may determine.

10. Disclosure of interest.

A member of the Council or a committee established by the Council who has a direct or indirect pecuniary interest in a matter under consideration by the Council or committee shall disclose the nature of that member's interest at the

next meeting of the Council or committee and that member shall not participate in the consideration of, or vote on, any question relating to that matter.

11. Secrecy.

A member of the Council or a committee established by the Council, the Registrar or any person acting on their behalf shall preserve secrecy with regard to the information obtained in the course of their duties, employment, and investigation under this Act, and shall not disclose such information to any other person except —

(a) as may be required in the administration of this Act;

(b) to their counsel and attorney; or

(c) with the consent of the person to whom the information relates.

12. Protection of members.

(1) Subject to subparagraph (2), no action, prosecution or other proceedings shall be brought or instituted personally against the Registrar, Deputy Registrar, Chairman or any member of the Council or committee in respect of any act done in good faith in pursuance or execution or intended execution of this Act.

(2) If the Registrar, Deputy Registrar, Chairman or any member of the Council or committee is exempt from liability by reason only of subparagraph (1), the Council shall be liable to the extent that it would be if the Registrar, Deputy Registrar or member were a servant or agent of the Council.

SECOND SCHEDULE

(section 70)

NURSING APPEAL TRIBUNAL

1. Constitution.

The Nursing Appeal Tribunal shall consist of five members appointed by the Minister, of whom —

(a) one shall be a counsel and attorney of at least ten years standing at The Bahamas Bar;

(b) three shall be retired nurses with no less than eighteen year's experience at the supervisory level; and

(c) one shall be a person nominated by civic society.

2. Tenure.

(1) A member of the Tribunal shall hold office for a term not exceeding three years and shall be eligible for reappointment.

(2) Notwithstanding subparagraph (1), no member of the Tribunal shall hold office for more than two consecutive terms.

3. Resignation.

(1) A member of the Tribunal other than the Chairman may at any time resign his or her office by instrument in writing addressed to the Minister and transmitted through the Chairman and from the date of the receipt by the Minister of the instrument, that member shall cease to be a member.

(2) The Chairman may at any time resign his or her office by instrument in writing addressed to the Minister and the resignation shall take effect as from the date of receipt by the Minister of the instrument.

4. Revocation of appointment.

The Minister may at any time revoke the appointment of any member of the Tribunal for misconduct or illegal activity.

5. Filling of vacancies.

If any vacancy occurs in the membership of the Tribunal, such vacancy, shall be filled by the appointment of another member who shall hold office for the remainder of the period for which the previous member was appointed, and the appointment shall be made in the same manner and from the same category of persons as the appointment of the previous member.

6. Publication.

The names of all members of the Tribunal as first constituted and every change in the membership shall be published in the *Gazette*.

7. Procedure.

Subject to this Act, the Tribunal shall determine the procedures for the conduct of its proceedings.

THIRD SCHEDULE

(section 75)

CONSEQUENTIAL AMENDMENTS

Acts	Amendments
Pharmacy Act (*Ch. 227*)	• in section 2 – insert a new definition of "nurse practitioner" as follows: " **"nurse practitioner"** has the same meaning assigned to it under the Nurses and Midwives Act;". • in section 24(2)(a), insert the words, "nurse practitioner," immediately after the words "medical practitioner,". • in section 26(1)(a), delete the words, "registered nurse or midwife" and substitute the words "registered nurse, midwife or advanced practice nurse". • in section 26(1)(d), insert the words ", midwife or advanced practice nurse" immediately after the words "by a registered nurse". • in section 30(5), insert the words "or nurse practitioner," immediately after the words "computerised physician". • in section 32, insert the words, "nurse practitioner," immediately after the words "medical practitioner,". • delete section 44 and substitute the following: "**44. Power of Minister to appoint a nurse to dispense drugs.** The Minister may appoint a registered nurse, midwife or advanced practice nurse as defined under the Nurses and Midwives Act to compound or dispense drugs in a public facility provided that such nurse is acting under and in accordance with the directions, whether written, orally or otherwise, of a registered medical practitioner, nurse practitioner or any other practitioner.".
Medical Act, 2014	• in section 3(2), insert the word "a nurse practitioner" in the appropriate position.