

ACT 575

TRADITIONAL MEDICINE PRACTICE ACT, 2000

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ACT 575

TRADITIONAL MEDICINE PRACTICE ACT, 2000¹

AN ACT to establish a Council to regulate the practice of traditional medicine, to register practitioners and licence practices, to regulate the preparation and sale of herbal, medicines and to provide for related matters.

Establishment and Functions of the Traditional Medicine Practice Council 1.

Establishment of the Council

(I) There is established by this Act a body corporate to be known as the Traditional Medicine Practice Council.

(2) The Council shall have perpetual succession, a common seal and may sue and be sued in its own name.

(3) The Council may for the performance of its functions acquire and hold movable and immovable property and may enter into a contract or any other transaction.

2. Object and functions of the Council

(1) The object of the Council is to promote, control and regulate traditional medicine practice.

(2) For the purposes of subsection (I) the Council shall

- (a) set standards for the practice of traditional medicine;
- (b) issue a certificate of registration to a qualified practitioner and license premises for a practice;
- (c) determine and enforce a code of ethics for traditional medicine practice in conjunction with an association of traditional medicine practitioners recognised by the Minister responsible for Health;

t. The Act was assented to on 28th February, 2000 and notified in the *Gazette* on 17th March, 2000.

- (d) promote and support training in traditional medicine;
- (e) approve in consultation with the educational and research institutions determined by the Board the curriculum for training in traditional medicine in the institutions;
- (f) collaborate with the Ministry to establish centres for provision of traditional medical care within the national health care delivery system;
- (g) advise the Minister on matters relating to and affecting the practice of traditional medicine;
- (h) collaborate with the appropriate agencies for large scale cultivation of medicinal plants and for the preservation of bio-diversity;
- (i) advise the Food and Drugs Board in writing on rules for the registration, advertisement, manufacture, packaging, preparation, labelling, sale, supply, exportation and importation of herbal medicine;
- (j) monitor fees payable by clients for services provided by practitioners; and
- (k) perform any other functions that are ancillary to the objectives of the Council.

3. Governing body of the Council

(1) The governing body of the Council is a Board consisting of

- (a) five nominees of the Association at least one of whom is a woman,
- (b) two persons nominated by the Minister one of whom is the Director of the Traditional Medicine Services Division of the Ministry,
- (c) two representatives from the universities and research institutions one of whom is a pharmacist with an interest in traditional medicine and the other a person with an interest in the preservation of biodiversity,
- (d) the Director of the Centre for Scientific Research into Plant Medicine,
- (e) the chief executive of the Food and Drugs Board, and
- (f) the Registrar appointed under section 29 who shall be the secretary to the Council.

(2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

(3) The Board shall have a chairman who shall be elected by secret ballot by the members of the Board from the five members of the Association referred to under paragraph (a) of subsection (1).

4. Tenure of office of members

(1) A member of the Board other than an ex officio member shall hold office for a period not exceeding three years and is eligible for re-appointment but a person shall not hold office for more than two terms in succession.

(2) Where a member of the Board resigns, dies, is removed from office or is for a reason unable to act as a member of the Board, the Minister shall notify the President of the vacancy and the President shall on the advice of the nominating authority where applicable, and acting in consultation with the Council of State, appoint another person to hold office for the unexpired portion of the member's term of office.

(3) A member of the Board may at any time resign from office in writing addressed to the President through the Minister.

(4) A member of the Board who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.

(5) The President shall by letter addressed to a member nominated by a body as its representative on the Board revoke the appointment of that member on the request of the body.

5. Meetings of the Board

(1) The Board shall meet at least once every three months for the dispatch of business at the times and at the places determined by the chairman.

(2) The chairman shall at the request in writing of not less than one-third of the membership of the Board convene an extraordinary meeting of the Board at the place determined by the chairman.

(3) The quorum at a meeting of the Council is seven members.

(4) The chairman shall preside at the meetings of the Board and in the absence of the chairman a member of the Board elected by the members present from among their number shall preside.

(5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes the person presiding shall have a casting vote.

(6) The Board may co-opt a person to attend a meeting of the Board but that person shall not vote on a matter for decision by the Board.

(7) The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

(8) A member of the Board who has an interest in a contract, or any other transaction proposed to be entered into with the Council or an application before the Board shall disclose in writing the nature of the interest and is disqualified from participating in the deliberations of the Board in respect of the contract, application or the other transaction.

(9) A member who infringes subsection (8) ceases to be a member of the Board. (10)

Subject to this section the Board shall determine the procedure for its meetings.

6. Establishment and appointment of committees

(1) Subject to subsection (3) the Board may appoint committees composed of members of the Board or non members or both to perform any of its functions under this Act.

(2) Without prejudice to subsection (1), the following committees are hereby established.

- (a) Finance, General
- (b) Purposes,
- (c) Research,

- (d) Training, and
- (e) Professional Standards and Ethics.

- (3) A committee of the Board shall be chaired by a member of the Board.
- (4) The Board shall determine the functions of each committee.

7. Allowances

There shall be paid to the members of the Board, members of a committee of the Board and persons co-opted to attend meetings of the Board, travelling and any other allowances approved by the Minister in consultation with the Minister responsible for Finance.

8. Regional and district offices of the Council

- (1) The Board shall establish in each regional capital and in the district as determined by the Board, regional and district offices of the Council.
- (2) A regional or district office of the Council shall be provided with the public officers that the President in accordance with the advice of the Board given in consultation with the Public Services Commission shall determine.
- (3) A regional or district office of the Council shall perform the functions of the Council in the region or district as directed by the Board.

Registration of Practitioners

9. Registration of practitioners

- (1) A person shall not operate or own premises as a practitioner or produce herbal medicine for sale unless that person is registered in accordance with this Act.
- (2) A person seeking full or temporary registration shall apply to the Registrar in the manner determined by the Board.

10. Qualification for registration

- (1) Where the Board is satisfied that
 - (a) an applicant has adequate proficiency in the practice of traditional medicine and
 - (b) the application has been endorsed by any two of the following:
 - (i) the district chairman of the Association; (ii) the traditional ruler of the community;
 - (iii) the District Co-ordinating Director,

it shall direct the Registrar to enter the applicant's name in the register of practitioners and issue the applicant with a certificate of registration on the payment of the prescribed fee by the applicant.

- (2) A person issued with a certificate under subsection (1) shall be known as a practitioner for the purposes of this Act.

(3) Registration under this Act is in addition to registration required under any other law in respect of the practice.

11. Temporary registration of non-citizens

A person who is not a citizen may be temporarily registered as a practitioner where that person

- (a) is the holder of a work permit or is otherwise entitled to engage in gainful employment in the Republic,
- (b) has satisfied the requirements of subsections (1) and (3) of section 10,
- (c) has a good working knowledge of English or an indigenous Ghanaian language, and
- (d) has proof of qualification and registration to practice in the country of origin or where that person was trained.

12. Renewal of certificate of registration

- (1) The certificate of registration shall expire at the end of 31st December of each year.
- (2) The certificate may be renewed subject to this Act.

13. Titles of practitioners

The Minister, on the recommendations of the Board given in consultation with the Association, may prescribe by Regulations the titles to be used by practitioners based on the type of service rendered and the qualifications of the practitioners.

14. Suspension of registration

The Board may suspend for a period determined by the Board, the registration of a practitioner where

- (a) an offence in relation to the practitioner is being investigated,
- (b) allegations of misconduct have been made against the practitioner,
- (c) a false declaration has been made in an application for a certificate or licence issued to that practitioner, or
- (d) the practitioner has contravened a provision of this Act.

15. Cancellation of registration

(1) A certificate of a practitioner shall be cancelled by the Board on the recommendations of a committee of the Board where the practitioner

- (a) has been convicted of an offence under this Act or the Regulations,
- (b) has breached any of the terms of the licence for the practice,
- (c) has lost the qualification on the basis of which the registration was made,
- (d) has been convicted to a term of imprisonment for a criminal offence, or
- (e) has appeared before the Professional Standards and Ethics Committee which has recommended the cancellation of the certificate.

(2) A certificate of a practitioner shall be cancelled if the Board considers it necessary in the interest of public health.

16. Representation to the Board

A registration shall not be cancelled or suspended unless the Board has given the practitioner at least thirty days notice of its intention to suspend or cancel the registration and has provided the practitioner an opportunity to make representations to the Board.

Licensing of Practices

17. Licensing of practices

A person shall not own or operate a practice unless that person holds a licence in respect of the practice issued under this Act.

18. Application and conditions for licence

(I) A person may apply to the Council for a licence for a practice through the district office of the Council within the area in which the practice is to be operated in the form determined by the Board.

(2) There shall be attached to the application,

- (a) the block plan of the premises for the practice,
- (b) provisional approval from the district planning authority or relevant authority on land use,
- (c) evidence of ability of proposed practitioners in the practice and proof of their registration,
- (d) testimonials of each proposed practitioner in the proposed practice from the Association,
- (e) two passport size photographs of each proposed practitioner in the practice,
- (f) a list of the types of services to be rendered by the practice, and (g) the prescribed licensing fee.

(3) A licence shall not be granted to an applicant unless the Board is satisfied that the applicant

- (a) is registered as a practitioner under this Act,
- (b) has the experience and competence to manage the practice in accordance with this Act, and
- (c) has complied with any other requirement specified by the Board and any other relevant law.

(4) The Board may request from the applicant where necessary

- (a) clearance or an appropriate permit from the Environmental Protection Agency, and
- (b) evidence of financial viability for the ownership and operation of the practice.

19. Issue and renewal of licence

(1) Where the Board is satisfied that an applicant has fulfilled the conditions required under this Act for licensing of a practice, it shall approve the application and issue the applicant with a licence.

(2) The licence shall expire on the 31st day of December of each year and may be renewed subject to this Act.

(3) The applicant shall pay, in respect of the licence or a renewal of the licence, the prescribed fee and a licence or renewal shall not be issued or made unless the prescribed fee has been paid.

20. Display of licence

The licence shall be displayed in a prominent place in the practice which place is accessible to the patients or prospective patients.

21. Application by non-citizen

A non-citizen may apply to the Council through the district office of the Council within the area in which the practice is to be operated for a licence to own or operate a practice where that person

- (a) possesses a valid work permit issued by the Minister responsible for the Interior,
- (b) has evidence of being trained in the practice of traditional medicine in the country of origin, where that person was not trained in Ghana, and has been registered or licensed as a practitioner,
- (c) has at least five years post qualification experience in a recognised institution of relevance to traditional medicine,
- (d) has passed
 - (i) an English language proficiency test where English is not the language trained in, or a similar test in a Ghanaian language, and
 - (ii) a professional test set by the Council, where applicable,
- (e) has registered with the Ghana Investment Promotion Centre, where appropriate and
- (j) has fulfilled any of the conditions set out in section 18 (2) as determined by the Board and any other conditions set by the Board.

22. Revocation, suspension and refusal to renew licence

The Board may revoke, suspend or refuse to renew a licence of a practice where the Board is satisfied that

- (a) the provisions of this Act are not being satisfactorily complied with,
- (b) the continued operation of the practice creates risk to public health, safety or is indecent,
- (c) the services provided in the practice have deteriorated below the required standard,

- (d) qualified practitioners have not been employed by the owner or operator of the practice,
- (e) a practitioner in the practice is not a fit or qualified person to be so employed,
- (f) there is a breach of quality control requirements in the preparation of the herbal medicine dispensed by the practice, or
- (g) there has been a breach of any of the provisions of sections I] to 26 of the Food and Drug Act, 1992.2

23. Notice of revocation, suspension or refusal to license

Where the Board intends to revoke, suspend or refuse to issue or renew a licence of a practice, the Registrar shall give the licensee or applicant

- (a) notice of the revocation, suspension or intention to refuse,
- (b) reasons for the intention to revoke, suspend or to refuse, and
- (c) an opportunity to make representations to the Board.

24. Effect of suspension or cancellation of licence

• (I) Where the licence of a practice is suspended or cancelled under this Act the premises shall be closed down and the Board shall arrange for the discharge or transfer of the patients there.

(2) Despite subsection (I) the Board may direct a patient to remain on the premises and continue to receive necessary treatment.

25. Representation to the Board

(1) An applicant or licensee who receives a notice under section 23 may make a representation to the Board within fifteen days from the date of receipt of the notice.

(2) Where a representation is not made under subsection (I), the Board may refuse to issue a licence applied for or may revoke a licence or temporarily close the practice after the time specified under subsection (I) has expired.

(3) Where representation is made the affected practice shall subject to section 24 (2) not operate until the case is determined by the Board.

(4) The Board shall, within three months of the receipt of a representation under subsection (I), take a decision on the representation and inform the applicant of its decision within fourteen days.

26. Power of entry and inspection

(I) An inspector authorised by the Board may at a reasonable time enter a practice or a place suspected to be used as a practice or a place for the production of herbal medicines for sale to investigate activities there and make a report to the Council.

2. P.N.D.C.L. 305B.

(2) Where an authorised inspector enters premises by virtue of subsection (1) the authorised inspector shall inspect

- (a) the licence, register, books and equipment of the practice,
- (b) the registration certificate of any practitioner,
- (c) the premises,
- (d) the herbal medicines and may conduct random sampling of the herbal medicines to determine compliance with quality control requirements, and
- (e) any other thing which is relevant to the investigation.

(3) The inspector shall at the request of the person in charge of the practice produce the authorisation of the inspector.

(4) The Board shall cause each practice to be inspected at least once a year.

(5) A police officer not below the rank of Assistant Superintendent may enter any premises if that officer has reasonable cause to believe that an offence with respect to this Act has been or is being committed on the premises.

(6) The Board may order the temporary closure of a practice in the presence of a police officer if it considers it in the public interest to do so.

(7) This section shall not be construed as authorising the inspection in a practice of a medical record of a patient.

27. Obstruction of inspector

A person shall not obstruct an authorised inspector in the performance of a function under this Act.

28. Notification of coroner

A practitioner shall notify a coroner within twenty-four hours of a death which occurs on the premises of the practice.

Staff, Financial and Miscellaneous Provisions

29. Registrar

(1) The President shall, in accordance with article 195 of the Constitution, appoint a practitioner with administrative and managerial experience, as the Registrar of the Council.

(2) The Registrar shall hold office on the terms and conditions specified in the letter of appointment.

30. Functions of the Registrar

(1) Subject to the directions of the Board, the Registrar is responsible for the day-to-day administration of the affairs of the Council and is answerable to the Board in the performance of functions under this Act.

(2) The Registrar shall keep up-to-date records of registered practitioners and licensed practices under this Act.

(3) The Registrar shall, as approved by the Board, issue and renew the registration certificates of practitioners and the licences of practices.

(4) The Registrar shall perform any other functions determined by the Board.

(5) The Registrar may delegate functions to an officer of the Council but is not relieved from ultimate responsibility for the performance of a delegated function.

31. Register of traditional medicine practitioners

(1) The Registrar shall record in a register to be known as the Register of Traditional Medicine Practitioners the names of registered practitioners and the premises licensed for practice under this Act.

(2) The Minister on the advice of the Board shall determine the registration and licensing fees to be paid by practitioners.

32. Administrative Secretary

(1) The President shall in accordance with article 195 of the Constitution, appoint an Administrative Secretary of the Council.

(2) The Administrative Secretary shall assist the Registrar in the performance of functions.

33. Appointment of other staff

(1) The President shall in accordance with article 195 of the Constitution and on the terms and conditions determined by the President, appoint other staff of the Council.

(2) The Council shall have any other officers and staff that are necessary for the proper and effective performance of its functions.

(3) The Council may engage the services of consultants and advisers as the Board may determine on the recommendation of the Registrar.

(4) Other public offices may be transferred or seconded to the Council or may otherwise give assistance to it.

34. Delegation of appointment

The President may in accordance with article 195 (2) of the Constitution delegate the power of appointment of public officers under this Act.

35. Funds of the Council

The sources of money for the performance of the functions of the Council include,

(a) subvention approved by Parliament,

(b) fees and charges accruing to the Council in the performance of its functions under this Act, and

(c) donations and grants.

36. Accounts and audit

(1) The Council shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.

(2) The accounts of the Council shall be audited by the Auditor-General within three months after the end of each financial year.

(3) The Auditor-General shall, not later than six months after the end of each financial year, forward to the Minister a copy of the audited accounts of the Council for the financial year immediately preceding.

(4) The financial year of the Council shall be the same as the financial year of the Government.

37. Annual report and other reports

(1) The Board shall as soon as practicable after the expiration of each financial year but within six months after the end of the year submit to the Minister an annual report covering the activities and the operations of the Council for the year to which the report relates.

(2) The annual report submitted under subsection (1) shall include the report of the Auditor-General.

(3) The Minister shall within two months of the receipt of the annual report submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Board shall also submit to the Minister any other report that the Minister may in writing require.

38. Ministerial responsibility and directives

The Minister shall have ministerial responsibility for the Council and may give to the Board directives of a general nature on the policy to be followed by the Council in the performance of its functions.

39. Offences

A person who

- (a) owns or operates a practice without registering as a practitioner under this Act, or
- (b) owns or operates an unlicensed practice, or
- (c) uses a practice for services other than those for which it is licensed, or
- (d) makes a false declaration in pursuance of an application for registration or for a licence, or
- (e) provides the Council with false information concerning a practice, or
- (f) obstructs the entry for inspection of an authorised inspector, or
- (g) prevents an authorised person from closing down the practice, or
- (h) disregards safety Regulations made under this Act, or
- (i) pollutes the environment in the course of operations under this Act, or

- (j) works in a practice without the appropriate qualification or registration, or
- (k) uses a title to which that person is not qualified, or
- (l) operates from a vehicle without a full address being written boldly on that vehicle, or
- (m) fails to keep the required register or records prescribed by the Regulations, or
- (n) fails to notify a coroner of death in the practice, or
- (o) contravenes a provision of this Act,

commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment and in the case of a continuing offence to a further fine of five penalty units for each day that the offence continues after written notice has been served on the offender by the Council and the Court may order temporary or permanent closure of the practice.

40. Regulations

The Minister may, on the advice of the Board, by legislative instrument, make Regulations to

- (a) prescribe the standards of safety of and sanitary conditions of a practice;
- (b) prescribe a code of ethics for practitioners and for disciplinary matters;
- (c) regulate the arrangements for sterilisation and disinfection of a practice and the prevention of spread of infections from a practice;
- (d) prescribe the register and records to be kept in respect of a practice;
- (e) prescribe the fees to be paid for registration of practitioners and the licensing of a practice;
- (f) regulate the preparation and storage of herbal medicines;
- (g) regulate the sale of herbal medicine on vehicles and in public places; and
- (h) prescribe the mechanism of consultation between the Council and the Food and Drugs Board.

41. Effect of Food and Drugs Act

This Act in so far as it relates to herbal medicine shall be in addition to the Food and Drugs Act, 1992 and shall not derogate from the provisions of that Act.

42. Interpretation

In this Act, unless the context otherwise requires,

"Association" means an association or body of associations of Traditional Medicine Practitioners recognised by the Minister of Health;

"Board" means the governing body of the Council;

"bio-diversity" means living things of varied nature;

"citizen" means citizen of Ghana;

"Council" means the Traditional Medicine Practice Council established under section 1;

"function" includes powers and duties;

"herbal medicines" means any finished labelled medicinal products that contains as active ingredients aerial or underground parts of plants or other plant material or the combination of them, whether in the crude state or as plant preparation. Herbal medicines may contain excipients in plant material in addition to the active ingredients and in exceptional cases may also contain natural organic or inorganic active ingredients which are not of plant origin;

"Minister" means the Minister responsible for Health;

"Ministry" means the Ministry of Health;

"plant material" includes juices, gums, fatty oils, and any other substances of this nature;

"practice" means a traditional medicine practice;

"practitioner" means a traditional medicine practitioner whose practice uses herbs and any other natural products;

"premises" includes a house, building, structure, tent, caravan, land, ship, boat, an aircraft and a mechanically propelled vehicle;

"prescribed" means prescribed by Regulations made by the Minister under sections 13 and 40 of this Act;

"traditional medicine" means practices based on beliefs and ideas recognised by the community to provide health care by using herbs and any other naturally occurring substances.