

Nepal Health Professional Council Act, 2053

Date of Authentication

2053.11.3 (Feb 14, 1997 A.D.)

Act No. 30 of the year 2053 (1997 A.D.)

An Act made to make provisions regarding Health Professional Council

Preamble: Whereas, it is expedient to establish a Health Professional Council to make more effective the health services in Nepal, to mobilize the services of health professionals except the qualified doctors and nurses to be registered with the Medical Council in a managed and scientific manner and make provisions on the registration of their names according to their qualifications;

Be it enacted by the Parliament in the twenty fifth year of reign of **His Majesty King Birendra Bir Bikram Shah Dev.**

1. Short title and commencement: This Act may be called as the “Nepal Health Professional Council Act, 2053 (1997)”.

(2) It shall come into force in such place and on such date as the Government of Nepal may, by a notification in the Nepal Gazette, appoint.¹

2. Definitions : Unless the subject or the context otherwise requires, in this Act:-

(1) “Council” means the Nepal Health Professional Council established pursuant to Section 3.

(2) “chairperson” means the chairperson of the Council.

(3) “member” means the member of the Council and this term also includes the chairperson.

(4) “health profession” means the medical treatment, diagnosis and prevention of disease of sick people or any act pertaining to health profession.

(5) “health professional” means a person who has obtained the prescribed minimum qualifications and is involved in health profession.

¹ Appointed as to come into force on 2054.2.21(1997.6.3)(Nepal Gazette dated 2054.2.21(1997.6.3).

- (6) “register” means the register maintained for the registration of the names of health professionals pursuant to this Act.
- (7) “registered health professional” means a health professional whose name is registered in the register.
- (8) “committee” means the committee formed pursuant to Section 12.
- (9) “registrar” means the registrar of the Council appointed pursuant to Section 13.
- (10) “prescribed” or “as prescribed” means prescribed or as prescribed in the Rules or Bye-laws framed under this Act.

3. **Establishment of Council:** A Health Professional Council is hereby established for the operation of health services in a systematic manner and registration of the names of health professional according to the qualifications.

4. **Formation of Council:** (1) The Council established pursuant to Section 3 shall consist of the members as follows:

- (a) A person nominated by the Government of Nepal from amongst the persons who, having obtained at least bachelor degree in a subject related with health profession, have been involved in the health service for at least five years -Chairperson
- (b) Chairperson of Nepal Health Technician Association or a representative designated by him/her -Member
- (c) Chairperson of Nepal Pharmaceuticals Association or a representative designated by him/her -Member
- (d) Chairperson of Nepal Radiological

- Society or a representative designated by him/her -Member
- (e) Three registered health professionals nominated by the Government of Nepal from the pathology, physiotherapy and public health, on recommendation of the Nepal Health Technician Association -Member
- (f) Four health professionals elected by the registered health professionals from amongst themselves, as prescribed -Member
- (g) Dean of the Institute of Medical Sciences or a representative designated by him/her -Member
- (h) Representative, Nepal Medical Council -Member

(2) The Government of Nepal may make alteration in the members of the Council, in consultation with the Council, and by a notification published in the Nepal Gazette.

(3) If the Council considers necessary, it may invite any native or foreign specialist in medical profession to attend, as an observer, in its meeting.

(4) Pending the formation of the Council, the Government of Nepal may form a committee covering the areas as referred to in Section 4 for the performance of the functions required to be performed by the Council. The term of the committee so formed shall be one year in maximum.

5. Council to be corporate body: (1) The Council shall be an autonomous body corporate with perpetual succession.

(2) The Council shall have a separate seal of its own for all of its activities.

(3) The Council may, like an individual, acquire, use, sell and dispose of, or otherwise manage, any movable and immovable property.

(4) The Council may, like an individual, sue by its name and be also sued by the same name.

6. Term of member: (1) The term of office of the nominated or elected members of the Council shall be three years. The members whose term of office has expired may be eligible to be re-nominated or elected.

(2) If the office of any member falls vacant prior to the expiration of the term of office, another member shall be nominated or elected for the remainder of term.

7. Disqualifications for member: Any of the following persons shall not be eligible to be nominated or elected to or hold the office of member of the Council:

- (1) Who is not a citizen of Nepal;
- (2) Whose name has been deleted from the register;
- (3) Who has been convicted by a court of a criminal offense involving moral turpitude and served punishment; or
- (4) Who is of unsound mind.

8. Cessation of membership: The membership of the Council shall cease to exist in the following circumstances:

- (1) If the member becomes disqualified under Section 7;
- (2) If resignation tendered from the office of member is accepted;
- (3) If the member dies; or
- (4) If the member, without giving a notice, along with reasons, to the Council absents himself/herself from three consecutive meetings of the Council.

9. Functions, duties and powers of Council: The functions, duties and powers of the Council shall be as follows:

- (1) To make necessary policies for smoothly operating the health profession related activities.

- (2) To determine the curricula, terms of admission and policies on examination system of educational institutions imparting teaching and learning on health profession and evaluate and review the related matters.
 - (3) To determine the qualifications of health professionals and to provide for the registration of the names of health professionals having required qualifications.
- 10. Meeting and Decision of Council:** (1) The Council shall meet as prescribed by the chairperson.
- (2) The Council shall normally hold its meeting three times a year; and the chairperson may, if he/she considers necessary, call meetings more times.
 - (3) The meeting of the Council shall be presided over by the chairperson; and in the absence of the chairperson, it shall be presided over by the person selected by the members present at the meeting from amongst themselves.
 - (4) The presence of fifty percent members of the total number of members of the Council shall be deemed to constitute a quorum for a meeting of the Council.
 - (5) A majority opinion shall prevail at the meeting of the Council. In the event of a tie, the person presiding over the meeting may exercise the casting vote.
 - (6) The decisions of the Council shall be authenticated by the registrar.
 - (7) The allowances and other facilities receivable by the members for attending the meeting shall be as prescribed.
 - (8) Other procedures relating to the meeting of the Council shall be as determined by the Council itself.
- 11. Delegation of powers:** The Council may, as per necessity, delegate its powers to the chairperson, any member or any committee of members, as prescribed.
- 12. Committees:** (1) The Council may, for the implementation of its decisions, form various thematic committees, as prescribed.

- (2) The provisions functions, duties and powers, and other procedures relating to the meeting of, the committee to be formed pursuant to Sub-section (1) shall be as specified by the Council.
- 13. Registrar:** (1) The Government of Nepal may appoint any person involved in the health profession as the registrar to carry out the administrative business of the Council.
- (2) The registrar shall act as the secretary of the Council.
- (3) The terms and conditions of service and facilities of the registrar shall be as prescribed.
- (4) The Government of Nepal may designate any other employee of officer level of the Council to perform the functions of the registrar in the event of absence of the registrar.
- 14. Functions, duties and powers of registrar:** The functions, duties and powers of the registrar shall be as follows:
- (a) To implement, or cause to be implemented, the decisions of the Council,
- (b) To prepare the agenda to be submitted to the meeting of the Council,
- (c) The other functions, duties and powers of the registrar shall be as prescribed.
- 15. Employees of Council:** (1) The Council may appoint the required employees.
- (2) The employees appointed pursuant to Sub-section (1) shall be under supervision and control of the registrar.
- (3) The terms and conditions of service and facilities of the employees of the Council shall be as prescribed.
- 16. Application for registration of name in register:** (1) A health professional, who has possessed the minimum qualifications as prescribed and intends to carry on the health profession, has to make an application, as prescribed, to the Council, for getting his/her name registered in the register, subject to this Act and the Rules framed hereunder.

(2) A health professional who is carrying on the health profession at the time of commencement of this Act has to make an application under Sub-section (1) for the registration of his/her name within six months after the date of commencement of this Act.

(3) A health professional who makes an application pursuant to Sub-section (1) or (2) for the registration of his/her name has to attach the certificate relating to his/her qualifications, recommendation letter, degree and the fees as prescribed with the application.

17. Examination of application: (1) The registrar shall make necessary inquiry into the application made pursuant to Section 16 and make a submission to the concerned thematic committee for the registration of name in the register.

(2) The concerned thematic committee shall inquire into the application made pursuant to Sub-section (1) as to whether the qualifications certificate and degree are recognized ones or not and whether the application meets the requirements and submit a report to the Council within fifteen days.

(3) The Council shall, based on the report submitted by the committee pursuant to Sub-section (2), make decision to or not to register the name of applicant in the register.

(4) Where the Council makes decision to enter the name of the applicant in the register pursuant to Sub-section (3), the registrar shall enter the name of such applicant in the register and provide the applicant with the registration certificate in the prescribed format. Where the Council decides not to register the name of applicant, the registrar shall give information thereof to the applicant.

18. Deletion of name from register and re-registration: (1) In any of the following circumstances, the Council may issue an order to delete the name of a registered health professional from the register:

(a) where he/she has been punished by a court in a criminal offense involving moral turpitude;

- (b) where two-thirds majority of the Council adopt a resolution that he/she has not observed the prescribed professional code of conduct; or
- (c) where he/she is unable to carry on profession because of insanity or physical condition.

(2) Where a nursing professional whose name has been deleted from the register pursuant to Sub-section (1), showing a reasonable reason, makes an application for re-registration of his/her name, and the Council deems it reasonable for the re-registration of his/her name, the Council may give an order to register his/her name.

(3) In cases where an order is received pursuant to Sub-section (2), the registrar shall re-register the name of such nursing professional in the register and issue the certificate, by collecting the fees as prescribed.

19. **Revocation of certificate:** Where the Council gets information that the name of any person has been entered in the register by fraud or mistake and this matter is held to be true following inquiry into the matter, the Council may seize and revoke the registration certificate of such person.
20. **Prohibition on carrying on health profession:** After one year of the commencement of this Act, no person other than a registered health professional shall be entitled to carry on the health profession, directly or indirectly.
21. **Recognition to educational qualification:** (1) The Government of Nepal may, on recommendation of the Council, recognize any educational qualification certificate or other degree in health profession.
- (2) The educational qualification certificate or degree recognized by the Government of Nepal shall be published in the Nepal Gazette.
22. **Details to be submitted:** The Council may from time to time require any educational institute granting the educational qualification certificate or other degree recognized pursuant to Section 21 to submit details on the curriculum and the terms of admission prescribed by such institute for such certificate or degree

for the evaluation thereof, and it shall be the duty of such institution to provide the details.

- 23. Inspection of examination:** The Council may appoint and depute inspectors for the inspection of examinations to be given by the concerned educational institute for the certificates of educational quantification or other degrees recognized pursuant to Section 21. The inspectors so appointed shall submit a report to the Council, setting out such details on the examination inspected by them as may be prescribed by the Council.

Provided that, the inspector shall not make any kind of intervention with such examination.

- 24. Removal of recognition:** (1) If, upon considering the details received pursuant to Section 22 and the report received pursuant to Section 23, the Council thinks that the curriculum, terms of admission and inspection and operation procedures fixed by an educational institute recognized pursuant to Section 21 are not appropriate and adequate, the Council shall submit its report thereon to the Government of Nepal.

(2) On receipt of the report of the Council pursuant to Sub-section (1), the Government of Nepal may, if it thinks necessary, seek explanation from the concerned educational institution. Having considered explanation, if any, received and holding further inquiry if so required, and based on such inquiry, among others, the Government of Nepal may cancel recognition of the educational qualification certificate or other degree in health profession conferred by such educational institution after a certain date, by publishing a notification in the Nepal Gazette.

- 25. Fund of Council:** (1) The Council shall have a separate fund of its own.

(2) The fund of the Council shall consist of the following amounts:

- (a) Amounts received from the Government of Nepal,
- (b) Amounts obtained as the fee for the registration of name of health professional, and

(c) Amounts received from any other sources.

(3) The operation of the fund of the Council shall be as prescribed.

26. Accounts and audit: (1) The accounts of the incomes and expenditures of the Council shall be maintained as prescribed.

(2) The audit of the Council shall be performed as prescribed.

(3) The Government of Nepal may, if it so desires, inspect, or cause to be inspected, the accounts of the fund of the Council at any time.

27. Dissolution of Council: (1) If the Government of Nepal thinks that the Council has failed to exercise the powers conferred to it pursuant to this Act or the Rules framed under this Act or has abused powers or used excessive powers or failed to perform its duties pursuant to this Act and the Rules framed under this Act, it may dissolve the Council.

(2) After the dissolution of the Council pursuant to Sub-section (1), the Government of Nepal shall take custody of the fund and other assets of the Council, and pending the formation of another council, it may itself perform all such powers as required to be performed by the Council pursuant to this Act and the Rules or cause to be exercised such functions by a committee formed by it.

(3) The Government of Nepal shall form a new council pursuant to Section 3 generally within three months after the dissolution of the Council pursuant to Sub-section (1).

(4) The Government of Nepal shall hand over the fund and assets held by it in its custody pursuant to Sub-section (2) to a new council after the formation of such council.

28. Punishment: (1) A person who carries on the health profession in contravention of Section 20 shall be punished as prescribed.

(2) A person who commits any act in violation of this Act or the Regulation framed under this Act, other than the offense mentioned in Sub-section (1), shall be punished as prescribed.

29. **Authority to investigate and file case:** The authority or body to investigate and file cases on the offenses referred to in Section 20 and the procedures pertaining thereto shall be as specified by the Government of Nepal by a notification in the Nepal Gazette.
30. **Government to be the Plaintiff:** Government of Nepal shall be the plaintiff in a case to be investigated and tried pursuant to Section 29.
31. **Appeal:** A person who is not satisfied with a decision or order made by the Council under this Act may make an appeal to the Court of Appeal within thirty five days after the date of receipt of information of such decision or order.
32. **Powers to frame Rules:** The Government of Nepal, with the advice of the Council, may frame necessary Rules to implement the objectives of the Act.
33. **Powers to frame Bye-rues:** The Council may, with the approval of the Government of Nepal, frame Bye-laws for the operation of its day-to-day business frame necessary Rules to implement the objectives of the Act.