

SAINT LUCIA

No. 33 of 2006

ARRANGEMENT OF SECTIONS

Sections

PART I**PRELIMINARY**

1. Short title and commencement
2. Interpretation
3. Act binds the Crown

PART II**MEDICAL AND DENTAL****DIVISION 1***Preliminary*

4. Interpretation

DIVISION 2*Medical and Dental Council*

5. Establishment of Council
6. Board of Council
7. Disqualification from being a member of the Board
8. Functions of Council
9. Powers of the Council
10. Independence of Council
11. Delegation by Board
12. Seal
13. Chairperson and Deputy Chairperson of the Board
14. Terms of appointment
15. Resignation
16. Revocation
17. Vacation
18. Leave of absence for a member
19. Effect of vacancy of membership
20. Remuneration
21. Executive Director

22. Secretary and staff
23. Board to regulate own procedure
24. Meetings
25. Quorum
26. Presiding at meetings
27. Conduct of meetings of the Board
28. Committees of the Board
29. Declaration of interest and abstention from voting
30. Direction by Minister
31. Funds of Council
32. Accounts
33. Audit
34. Auditor's report
35. Annual Report

DIVISION 3*Registration and Practising Certificate*

36. Requirement to be registered and have practising certificate
37. Categories of registration
38. Entitlement to registration of person practising medicine or dentistry immediately prior to commencement of Act
39. Registration in state emergency
40. Application and eligibility to apply
41. Determination of application
42. Internship conditions
43. Supervised practice programme conditions
44. Professional indemnity insurance
45. Special grounds for refusal of registration
46. Certificate of registration
47. Practising certificate
48. Display of practising certificate
49. Application for renewal
50. Practising certificate taken to be in force while application is considered
51. Inquiries into application
52. Decision
53. Discretion to refuse to renew of practicing certificate
54. Claims for fees

DIVISION 4

Rules

55. Rules of Council

PART III

ALLIED HEALTH

DIVISION 1

Preliminary

56. Interpretation
57. Declaration of allied health profession

DIVISION 2

Allied Health Council

58. Establishment of Council
59. Board of Council
60. Disqualification from being a member of the board
61. Functions of Council
62. Independence of Council
63. Delegation by Board
64. Seal
65. Chairperson and Deputy Chairperson of the Board
66. Terms of appointment
67. Resignation
68. Revocation
69. Vacation
70. Leave of absence for a member
71. Effect of vacancy of membership
72. Remuneration
73. Executive Director
74. Secretary and staff
75. Council to regulate own procedure
76. Meetings
77. Quorum
78. Presiding at meetings
79. Conduct of meetings of the Board
80. Committees of the Board

81. Declaration of interest and abstention from voting
82. Directions by Minister
83. Funds of Council
84. Accounts
85. Audit
86. Auditor's report
87. Annual report

DIVISION 3

Registration and licence

88. Requirement to be registered
89. Registration of persons practising in an allied health profession prior to commencement of Act
90. Eligibility of registration
91. Application for registration
92. Determination of application
93. Registration of applicant and issue of licence
94. Licence as evidence of entitlement to practice
95. Application for renewal
96. Licence taken to be in force while application is considered
97. Decision
98. Refusal of issuance of licence

DIVISION 4

Rules

99. Rules of Council

PART IV

KEEPING OF REGISTERS

100. Registers
101. Removal from register
102. Surrender of practicing certificate or licence
103. Evidentiary provisions

PART V

PROFESSIONAL CONDUCT

DIVISION 1

Complaints

104. Making complaints
105. Specific matters in respect of which a complaint may be made
106. Complaints procedure
107. Certain complaints to be dismissed
108. Investigation of complaints
109. Complaints dealt with by relevant Council
110. Notice of decision

DIVISION 2

Suspension or revocation of Practicing Certificate or Licence

111. Suspension or revocation of practicing certificate or licence
112. Revocation of suspension

PART VI

APPEALS

113. Establishment of Appeals Board
114. Hearing of Appeals

PART VII

OFFENCES

115. Offences of false statements and forgery
116. Obstruction
117. Prescribing of drugs
118. Penalties where not specifically provided

PART VIII

MISCELLANEOUS

119. Employment jointly by Councils
120. Oath of confidentiality
121. Confidentiality of information
122. Keeping of records
123. Repeal
124. Regulations

SCHEDULE - Allied Health Professions

I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

16th November, 2006.

SAINT LUCIA

No. 33 of 2006

AN ACT to provide for the registration and regulation of health practitioners, and for other related matters.

[ON ORDER]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows :

PART I
PRELIMINARY

Short title and commencement

1. — (1) This Act may be cited as the Health Practitioners Act 2006.

(2) This Act shall come into operation on a day to be fixed by the Minister by Order published in the *Gazette*.

Interpretation

2. In this Act —

“allied health profession” means an allied health profession listed in the Schedule;

“applicant” means a person who makes an application in accordance with the provisions of this Act;

“attorney-at-law” means an attorney-at-law appointed pursuant to the Legal Professions Act, Cap. 2.04;

“category of health care practice” means the practice of medicine, dentistry or an allied health profession listed in the Schedule;

“Chief Medical Officer” means the Chief Medical Officer appointed pursuant to the Public Health Act, Cap. 11.01;

“Commission” means the Health Services Complaints and Conciliation Commission established pursuant to the Health Services (Complaints and Conciliation) Act 2001, No. 34;

“health practitioner” means a person who is registered pursuant to the provisions of this Act;

“licence” means a licence issued pursuant to section 93;

“Minister” means the Minister responsible for health services;

“practising certificate” means a practising certificate issued pursuant to section 50;

“prescribed” means prescribed by the Regulations;

“Regulations” means Regulations made pursuant to the provisions of this Act;

“relevant Council” means —

- (a) in the case of medicine and dentistry, the Council that registers the medical practitioner or dental practitioner pursuant to the provisions of this Act;
- (b) in the case of allied health care, the Council that registers allied health practitioners pursuant to this Act;

“repealed Acts” means the Medical Registration Ordinance, Cap 11.06 and the Registration of Medical Practitioners Act, Cap. 11.07.

Act binds the Crown

- 3. This Act binds the Crown.

PART II
MEDICAL AND DENTAL
DIVISION 1
Preliminary

Interpretation

- 4. For the purposes of this Part —

“Allied Health Council” means the Allied Health Council established pursuant to section 58;

“certificate of registration” means a certificate of registration issued pursuant to section 46;

“Board” means the Board of the Council appointed pursuant to section 6;

“Chairperson” means the Chairperson of the Board appointed pursuant to section 13;

“Council” means the Medical and Dental Council established pursuant to section 5;

“Deputy Chairperson” means the Deputy Chairperson of the Council appointed pursuant to section 13;

“medical practitioner” means a person registered pursuant to this Part as a General Practitioner, Specialist Practitioner or a Temporary Practitioner for the purpose of practising medicine;

“dental practitioner” means a person registered pursuant to this Part as a General Practitioner, Specialist Practitioner or a

Temporary Practitioner for the purpose of practising dentistry;

“recency of practice requirements” means the requirements prescribed by Regulations, that if satisfied, demonstrate that an applicant for issue or renewal of a practising certificate has maintained an adequate connection with the practice of medicine or dentistry and may include the following:

- (a) the nature, extent and period of practice of medicine or dentistry by of the applicant;
- (b) the nature and extent of any continuing professional education undertaken by the applicant;
- (c) the nature and extent of any research, study or teaching, relating to the practice of medicine or dentistry, undertaken by the applicant;
- (d) the nature and extent of any administrative work relating to the practice of medicine or dentistry undertaken by the applicant; and
- (e) the nature and extent of absence from clinical practice if in excess of six months;

“Register” means the Register of Medical and Dental Practitioners kept and maintained pursuant to section 100.

DIVISION 2

Medical and Dental Council

Establishment of Council

5.— (1) There is hereby established a body to be known as the Medical and Dental Council.

(2) The Council is a body corporate to which section 19 of the Interpretation Act, Cap. 1.06 applies.

Board of Council

6.— (1) The affairs of the Council shall be administered by a Board, that subject to section 7, shall comprise the following seven members—

- (a) the Chief Medical Officer who shall be an ex- officio member;
- (b) four persons appointed by the Minister as follows-

- (i) one medical practitioner;
- (ii) one dental practitioner;
- (iii) an attorney-at-law of at least eight years standing;
- (iv) a member of the public who is not a medical or dental practitioner;
- (c) two health practitioners nominated by the Medical and Dental Association and appointed by the Minister, one of whom shall be a medical practitioner and the other a dental practitioner; and
- (d) the Chairperson of the Allied Health Council or any other member of the Allied Health Council nominated by the Allied Health Council and appointed by the Minister.

(2) The Minister shall, by Notice published in the *Gazette*, inform the public of the names of the members of the Board as first constituted and every change in membership of the Board.

Disqualification from being a member of Board

7. A person is disqualified from being a member of the Board and shall not become or continue to be appointed as a member of the Board if the person is or has been —

- (a) declared a bankrupt pursuant to Chapter 9 of the Commercial Code, Cap. 244 of the Revised Laws of Saint Lucia 1957;
- (b) declared by a court to be physically or mentally incapacitated by reason of unsoundness of mind;
- (c) convicted of a criminal offence except where the offence is a minor traffic offence or has been spent in accordance with the Criminal Records (Rehabilitation of Offenders) Act 2004, No.2; or
- (d) convicted of an offence pursuant to the provisions of this Act.

Functions of Council

8. The functions of the Council shall be as follows —

- (a) to assess applications for the registration of medical practitioners and dental practitioners;
- (b) to register persons who satisfy the requirements for registration pursuant to the provisions of this Act as medical practitioners and dental practitioners;

- (c) to assess applications for practising certificates for medical practitioners and dental practitioners;
- (d) to issue practising certificates to persons who satisfy the requirements for practising as a medical practitioner or dental practitioner pursuant to the provisions of this Act;
- (e) to monitor and assess whether a medical practitioner or dental practitioner complies with the provisions of this Act;
- (f) to promote high standards in the practice of medicine and dentistry;
- (g) to ensure that all medical research is conducted according to ethical standards;
- (h) subject to section 11(1)(c), to adopt and monitor the quality of programmes for the continuing professional education of medical practitioners and dental practitioners and to encourage their participation in these programmes;
- (i) subject to section 11(1)(c), to develop or adopt training programmes in the practice of medicine and dentistry that are relevant to a person's eligibility for registration as a medical practitioner or dental practitioner;
- (j) to confer and cooperate with entities engaged in the development of national policies with respect to the regulation of the practice of medicine;
- (k) to confer and cooperate with educational institutions with respect to the education of persons in the practice of medicine or dentistry;
- (l) to advise the Minister with respect to the operation of this Act;
- (m) to investigate complaints made against a medical practitioner or dental practitioner referred to it by the Commission or of its own motion;
- (n) to develop, publish and monitor a code of ethics with respect to medical practitioners and dental practitioners;
- (o) to determine the scope of practice for each discipline of medicine or dentistry;
- (p) to ensure compliance with this Act; and

- (q) to perform any other functions given to it under this Act or any other Act.

Powers of the Council

9.— (1) The Council shall have the power to do all things necessary or convenient to be done in connection with the performance of its functions.

(2) Without limiting the power conferred under subsection (1), the Council shall have the power to —

- (a) share information with other authorities responsible for the registration of medical practitioners and dental practitioners outside of Saint Lucia;
- (b) publish and distribute information pursuant to this Act to the public, health practitioners and other interested persons;
- (c) support education and research in the practice of medicine and dentistry;
- (d) conduct evaluations on persons applying to be registered under this Part;
- (e) co-operate with any university, hospital or institution, whether in Saint Lucia or elsewhere, in order to provide for the education and evaluation of medical practitioners and dental practitioners;
- (f) participate in any programme relating to the education of medical practitioners or dental practitioners or the practice of medicine or dentistry; and
- (g) participate in the formation of, and be a member of, any body or programme concerned with medical practitioners or dental practitioners.

Independence of Council

10. In performing its functions and exercising its powers, the Council shall act independently, impartially and in the public interest.

Delegation by Board

11.— (1) Subject to subsection (2), the Board may delegate its functions pursuant to this Act to —

- (a) a member of the Board; or
- (b) a committee of the Board appointed pursuant to section 28; and
- (c) in the case of paragraph (h) and (i) of section 8, to another agency.

(2) The Board shall not delegate its power pursuant to this Act to—

- (a) approve or refuse registration;
- (b) cancel registration;
- (c) impose or remove conditions of registration; or
- (d) issue practicing certificates.

Seal

12.— (1) The Council shall have an Official Seal.

(2) The affixing of the Official Seal of the Council shall be in the presence of, and witnessed by the signature of —

- (a) the Chairperson or the Deputy Chairperson; and
- (b) the Executive Director.

(3) All documents which are executed by the Board, other than those required by law to be under seal, and all decisions of the Board shall be signed by —

- (a) the Chairperson or any other member duly authorized in writing by the Chairperson to act on behalf of the Chairperson; and
- (b) the Executive Director.

Chairperson and Deputy Chairperson of the Board

13.— (1) At the first meeting of the Board, the members of the Board shall elect a Chairperson and a Deputy Chairperson from among its membership.

(2) The Deputy Chairperson shall act as Chairperson of the Board —

- (a) during a vacancy in the office of Chairperson;
- (b) during all periods when the Chairperson is absent from duty or, for any other reason, is unable to perform the functions of his or her office.

Terms of appointment

14. A member of the Board shall hold office for a period not exceeding five years and shall be eligible for reappointment.

Resignation

15. A member of the Board may resign from membership of the Council by submitting a notice of resignation in writing to the Minister.

Revocation

16. The Minister may, at any time, in writing, revoke the appointment of a member of the Board appointed pursuant to section 6(b), (c) or (d) if, upon evidence the Minister is satisfied that the member is —

- (a) disqualified from being a member of the Board pursuant to section 7;
- (b) guilty of neglect of duty, misconduct or malfeasance; or
- (c) has failed to act in the best interests of the Council.

Vacation

17.— (1) A member of the Board is deemed to have vacated his or her office if the member —

- (a) resigns pursuant to section 15 ;
- (b) is disqualified pursuant to section 7; or
- (c) is absent without the permission of the Board from three consecutive meetings of the Board of which due notice has been given.

(2) In addition to the circumstances stated in subsection (1), a member of the Board appointed pursuant to sections 6(b)(i) and (ii) and 6(c) is also deemed to have vacated his or her office if the member ceases to be a medical or dental practitioner registered pursuant to the provisions of this Act.

Leave of absence for a member

18.— (1) The Minister may approve a leave of absence for a member of the Board for a period not exceeding three months.

(2) The Minister may appoint an alternate member to act in the office of the member of the Board while the member is absent on approved leave pursuant to subsection (1).

(3) A person appointed pursuant to subsection (2) shall belong to the same category of persons to which the member of the Board who has been granted leave belongs.

Effect of vacancy of membership

19. The validity of any proceedings of the Board shall not be affected by any vacancy amongst the members of the Board or by any defect in the appointment of a member of the Board.

Remuneration

20. A member of the Board shall be entitled to be paid such fees and allowances as prescribed.

Executive Director

21.— (1) The affairs of the Board shall be managed by an Executive Director who shall be appointed by the Board upon such terms and conditions as it may determine.

(2) The Executive Director shall perform all the functions entrusted to him or her under this Act and shall attend all meetings of the Board unless —

- (a) the Executive Director is instructed by the Chairperson of a meeting to withdraw; or
- (b) the Executive Director has obtained leave of absence or is prevented from attending for good cause.

(3) The Board may, during the absence of the Executive Director, appoint a person to act as Executive Director upon such terms and conditions as the Board may determine.

Secretary and staff

22.— (1) The Board shall appoint a person at such salary and upon such terms and conditions as it may determine to perform the functions of Secretary to the Board.

(2) The Secretary shall perform all the functions entrusted to him or her pursuant to this Act and shall perform such additional duties as may be assigned to him or her by the Executive Director.

(3) The Board may appoint such staff as it may require for the proper carrying out of its functions pursuant to this Act.

(4) A person appointed pursuant to subsection (1) shall perform the duties assigned to him or her by the Board.

Board to regulate own procedure

23.— (1) Subject to this Act and to the Regulations, the Board shall regulate its own procedure.

(2) The Board shall cause to be kept minutes of the proceedings of its meetings and of meetings of any of the committees established by it.

Meetings

24.— (1) Meetings of the Board shall be held at the times and place the Chairperson shall decide.

(2) Notwithstanding subsection (1), the Chairperson shall call a meeting if asked, in writing, to do so by the Minister or by three members of the Board.

Quorum

25. The quorum for a meeting of the Board shall be five.

Presiding at meetings

26.— (1) The Chairperson shall preside at all meetings of the Board at which he or she is present.

(2) If the Chairperson is absent from a meeting of the Board, but the Deputy Chairperson is present, the Deputy Chairperson shall preside.

(3) If the Chairperson and the Deputy Chairperson are both absent from a meeting of the Council, the members shall select a member present at the said meeting to preside.

Conduct of meetings of the Board

27.— (1) All decisions of the Board shall be decided by a majority of members present and voting at the meeting and, in the event of an equality of votes, the Chairperson shall have a casting vote.

(2) A resolution is validly made by the Board even if it is not passed at a meeting of the Board, if —

- (a) a majority of the members give written agreement of the resolution; and
- (b) notice of the resolution is given under the procedures approved by the Council.

(3) The Board shall keep in the minutes of its meetings, a record of any resolution made pursuant to subsection (2).

Committees of the Board

28.— (1) The Board may establish committees of the Board for effectively and efficiently performing its functions.

(2) The chairperson of a committee established pursuant to subsection (1) shall be a member of the Board.

(3) The Board shall decide the terms of reference of a committee established pursuant to subsection (1).

(4) The functions of a committee established pursuant to subsection (1) are as follows —

- (a) to advise and make recommendations to the Board with respect to matters, within the scope of the functions of the Council, referred by the Board to the committee; and
- (b) subject to section 11, to exercise the powers delegated to it by the Council.

(5) A committee appointed pursuant to subsection (1) shall keep a record of any decision it makes when exercising a power delegated to it by the Board.

(6) A member of a committee appointed pursuant to subsection (1) shall be entitled to be paid such fees and allowances as determined by the Board.

Declaration of interest and abstention from voting

29.— (1) A member of the Board who has an interest in a matter before the Council shall declare the nature of his or her interest at the first meeting of the Board at which it is practicable to do so and shall leave the meeting upon the matter coming up for discussion.

(2) A declaration and the departure of a member of the Board from the meeting in accordance with subsection (1) shall be noted in the minutes of the meeting.

(3) A member of the Board shall not —

- (a) vote in respect of a matter before the Board in which he or she has an interest; or
- (b) seek to influence the vote of any other member of the Board in relation to the matter.

(4) A member of the Board who fails to comply with subsection (3) commits an offence and upon summary conviction is liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or to both.

(5) Notwithstanding subsection (4), where a member of the Board fails to comply with subsection (3), the failure to comply amounts to misconduct in which case section 16 shall apply.

Directions by Minister

30.— (1) The Minister may give the Board a written direction in relation to a matter relevant to the performance of its functions pursuant to this Act, if the Minister is satisfied that it is necessary to give the direction in the public interest.

(2) Without limiting subsection (1), the direction may be to —

- (a) give reports and information; or
- (b) apply to the Council a policy, standard or other instrument applying to a public sector unit.

(3) A direction issued pursuant to subsection (1) shall not be in relation to —

- (a) the registration or refusal of an applicant;
- (b) the suspension or revocation of a practising certificate issued pursuant to this Act; or
- (c) the imposing or removal of conditions on the registration of an applicant.

Funds of Council

31. The Funds of the Council shall consist of —

- (a) such monies as may, from time to time, be placed at its disposal for the purpose of this Act by Parliament; or
- (b) registration fees and practising certificate fees and such other monies as may be lawfully paid to the Council.

Accounts

32. The Council shall keep proper records of its accounts in accordance with generally accepted international accounting standards and principles and shall prepare and retain financial statements in respect of each financial year.

Audit

33.— (1) The Council shall as soon as is practicable after each financial year, have its accounts audited annually by an independent auditor appointed by the Council who shall conduct the audit in accordance with generally accepted international auditing standards and principles.

(2) The Council and its employees shall grant to the auditor appointed pursuant to subsection (1) access to all books, deeds, contracts, accounts, vouchers or other documents which the auditor deems necessary and the auditor may require the person holding or accountable for such document to appear, make a signed statement or provide such information in relation to the document as the auditor deems necessary.

(3) A person who is required to appear, make a signed statement or to provide information pursuant to subsection (2) and who fails to comply, commits an offence and upon summary conviction is liable to a fine not exceeding five thousand dollars or to a term of imprisonment

not exceeding two months or to both, and to revocation of his or her appointment as a member of the Council or a committee appointed by the Council under section 28.

Auditor's report

34. An auditor appointed pursuant to section 33 shall, as soon as is practicable and not later than two months after the end of each financial year, submit copies of the audited financial statement of the Council.

Annual report

35.— (1) Subject to subsection (2) and not later than three months after the end of each financial year, the Council shall submit to the Minister an annual report on the work and activities of the Council for that financial year and the Minister shall lay the same at the next sitting of Parliament after receipt of the report.

(2) An annual report pursuant to subsection (1) shall be accompanied by the auditor's report made pursuant to section 34.

(3) A summary of an annual report pursuant to subsection (1) shall be published in the *Gazette* and the entire annual report shall be available to the public on payment of the prescribed fee to the Council.

DIVISION 3

Registration and Practising Certificate

Requirement to be registered and to have a practising certificate

36.— (1) A person shall not practise medicine or dentistry or hold himself or herself out to be a medical practitioner or dental practitioner in Saint Lucia unless that person is registered in the relevant category of registration pursuant to this Act and complies with this Act, the Regulations and the conditions of registration.

(2) A person shall not practise medicine or hold himself or herself out to be a medical practitioner or dental practitioner in Saint Lucia unless that person holds a valid practising certificate for that purpose issued pursuant to section 47 and complies with this Act, the Regulations and his or her practising certificate.

(3) A person who contravenes —

(a) subsection (1) only; or

(b) subsection (1) and (2) at the same time;

commits an offence and is liable to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding three years or to both.

(4) A person who contravenes subsection (2) but does not contravene subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars.

(5) For the purposes of this section a person holds himself or herself out to be a medical practitioner or a dental practitioner by using or taking the title of, or pretending to be, a medical practitioner, medical doctor, surgeon, physician, dentist or dental practitioner or orthodontist and implying that he or she is qualified to practise medicine or dentistry.

Categories of registration

37.— (1) Registration as a medical practitioner or dental practitioner pursuant to this Act shall be either Full Registration or Limited Registration or Institutional Registration which shall be divided into the following categories —

(a) Full Registration shall include registration as a:

(i) General Practitioner; or

(ii) Specialist Practitioner;

(b) Limited Registration shall include registration as:

(i) a Temporary Practitioner;

(ii) a Conditional Practitioner;

(iii) an Academic Practitioner; or

(iii) Research Practitioner;

(c) Institutional Registration

(2) Registration as a General Practitioner pursuant to this Act entitles a person who holds a valid practising certificate to practise general medicine or general dentistry unless such registration is cancelled pursuant to this Act.

(3) Registration as a Specialist Practitioner pursuant to this Act entitles a person, who holds a valid practising certificate to practise medicine or dentistry in an area of specialty unless the registration is cancelled pursuant to this Act.

(4) Registration as a Temporary Practitioner pursuant to this Act entitles a person who holds a valid practising certificate to practise general medicine or general dentistry, or practise medicine or dentistry in an area of specialty pursuant to the provisions of this Act and expires after six months unless the registration is cancelled pursuant to this Act .

(5) Registration as a Conditional Practitioner entitles a person to practise medicine or dentistry subject to conditions stipulated by the Council and shall include medical practitioners or dental practitioners in training and on probation.

(6) Registration as an academic practitioner or research practitioner entitles a person to be registered to teach, research or practise medicine or dentistry within the respective area as per conditions set by the Council.

(7) Institutional Registration entitles a medical practitioner or a dental practitioner who works in a medical institution or dental institution and who holds a valid practising certificate to practise general medicine or general dentistry or to practise medicine or dentistry in an area of specialty pursuant to the provisions of this Act under the supervision of a Specialist Practitioner unless the registration is cancelled pursuant to this Act.

(8) A person who is registered as a General Practitioner shall not practise in any area of specialty of medicine or dentistry unless he or she is also registered as a Specialist Practitioner pursuant to the provisions of this Act except in an emergency.

(9) A person who contravenes subsection (8) commits an offence and on conviction is liable to a fine not exceeding fifty thousand dollars.

Entitlement to registration of persons practising medicine or dentistry immediately prior to commencement of Act

38.— (1) The Council shall, immediately upon the commencement of this Act, cause to be entered in the Register of Medical and Dental Practitioners the particulars specified in section 100 in respect of all persons who immediately before commencement of this Act, were registered as medical practitioners and dental practitioners under the repealed Acts without application made on the part of these persons and without the payment of any fee and, pending such entry, such

persons shall continue to practise as they did prior to this Act, but shall within six months of passage of this Act file with the Council the necessary applications and prescribed fees to be deemed to be General Practitioners, Specialist Practitioners or Temporary Practitioners as the case may be.

(2) The Council shall within three months of receipt of all necessary documents issue relevant registration and practicing certificates in accordance with the provisions of this Act for a period not exceeding —

(a) in the case of a General Practitioner or a Specialist Practitioner, two years unless cancelled prior to expiry in accordance with this Act;

(b) in the case of a Temporary Practitioner, six months unless cancelled prior to expiry in accordance with this Act;

after which time an application is required to be made for re-registration in accordance with section 40.

(3) Upon entering the name of a person entitled to be registered pursuant to this section (1) in the Register, the Council shall also issue a practising certificate to him or her pursuant to section 47, for the period referred to in subsection (2) after which time an application for practising certificate is required to be made in accordance with section 47.

Registration in state of emergency

39.— (1) Notwithstanding any provisions of this Act, where at any time in the opinion of the Governor-General, a state of emergency renders it necessary, the Governor-General acting on the advice of the Chief Medical Officer may authorize a person to practise as a General Practitioner, Specialist Practitioner or Temporary Practitioner and to issue a practising certificate to a person who shows to the satisfaction of the Governor-General that the person is of good character and holds a qualification from any university or other institution in any country which is authorized by the law of such a country to grant such qualification, and that such qualification furnishes a sufficient guarantee of the possession of the requisite knowledge and skill for the efficient practice of medicine or dentistry, and he or she otherwise fulfills the conditions prescribed by this Act or the Regulations.

(2) A person registered by virtue of subsection (1), shall cease to be registered if the Governor-General at any time, by Order, declares that the state of emergency which was the occasion for the registration, has ceased to exist.

Application and eligibility to apply

40.— (1) An eligible person may, subject to subsection (2), apply to the Council for registration as a medical practitioner or a dental practitioner.

(2) An application pursuant to this section shall —

- (a) be in writing in the prescribed form;
- (b) specify the category of registration being applied for;
- (c) be accompanied by the following-
 - (i) the original or certified copies of the applicant's certificates;
 - (ii) the prescribed application fee;
 - (iii) proof that the applicant is a fit and proper person to practise medicine or dentistry in Saint Lucia;
 - (iv) a certificate of good standing from the previous registration body of the applicant, where applicable;
 - (v) a police certificate of character from the last jurisdiction where the applicant last worked;
 - (vi) a valid licence from a jurisdiction where the applicant has practised, if applicable;
 - (vii) an updated curriculum vitae; and
 - (viii) such other information as the Council may require.

(3) All information submitted with an application pursuant to this section shall be verified by a statutory declaration.

(4) For the purposes of this section, a person shall not be an eligible person for registration as a General Practitioner, Specialist Practitioner or a Temporary Practitioner pursuant to this Act if the person is —

- (a) declared by a court to be physically or mentally incapacitated by reason of unsoundness of mind;
- (b) convicted of a criminal offence except where the offence is a minor traffic offence or has been spent in accordance with the Criminal Records (Rehabilitation of Offenders) Act 2004, No. 2; or

- (c) convicted of an offence pursuant to the provisions of this Act or a criminal offence relating to the practice of medicine or dentistry against another law applying, or that applied, in Saint Lucia or in a foreign state.

(5) For the purposes of this section, a person shall be an eligible person for registration as a General Practitioner, Specialist Practitioner or a Temporary Practitioner if the person is not disqualified by virtue of subsection (2), is temporarily resident in Saint Lucia and —

- (a) holds a qualification or degree granted by a University or School of Medicine which, in the opinion of the Council, is evidence of satisfactory training in medicine or dentistry for the category of registration being applied for; and
- (b) in the case of —
 - (i) registration as a General Practitioner, subject to sections 42 and 43, the person has completed the prescribed internship or training or has the practical experience in the practice of general medicine or dentistry for the prescribed continuous number of years immediately prior to making the application for registration; or
 - (ii) registration as a Specialist Practitioner, the person has the training or practical experience to practise medicine or dentistry in the area of specialty for the prescribed continuous number of years immediately prior to making the application for registration;
 - (iii) registration as a Temporary Practitioner —
 - 1. in the practice of general medicine or general dentistry, the person has completed the prescribed internship or training or has the practical experience in the practice of general medicine or dentistry for the prescribed continuous number of years immediately prior to making the application for registration; or
 - 2. in an area of specialty, the person has the training or practical experience to practise medicine or dentistry in the area of specialty for the prescribed continuous number of years immediately prior to making the application for registration.

Determination of application

41.— (1) In determining an application, the Council —

- (a) may investigate the applicant;
- (b) may, by notice given to the applicant, require the applicant to give the Council, within a reasonable time of at least thirty days as stated in the notice, further information or a document which the Council may reasonably require to consider the application; and
- (c) may, by notice given to the applicant, require the applicant to undergo a written, practical or oral examination within a reasonable time of at least thirty days as stated in the notice, and at a reasonable place to determine the applicant's ability to practise medicine or dentistry in Saint Lucia competently and safely;
- (d) shall have regard to —
 - (i) the applicant's ability to communicate effectively; and
 - (ii) any other issue which the Council may deem relevant to the applicant's ability to practise medicine or dentistry in Saint Lucia competently and safely; and
- (e) may have regard to the advice and recommendations of any university or other institution which offers training in general medicine or general dentistry or in an area of specialty in medicine or dentistry.

(2) The Council may require the information or document required pursuant to subsection (1) (b) to be verified by a statutory declaration.

(3) An applicant is taken to have withdrawn an application if, within the stated time, the applicant —

- (a) does not comply with a requirement under subsection (1) (b);
- (b) does not undergo an examination under subsection (1) (c).

(4) Where the Council is satisfied that an applicant is entitled to be registered as a General Practitioner, Specialist Practitioner or a Temporary Practitioner as the case may be, the Council shall register the applicant and may do so subject to such conditions pursuant to the provisions of this Act or other conditions which the Council considers necessary or desirable to enable the applicant to practise medicine or

dentistry in Saint Lucia competently and safely and shall give notice in writing to the applicant of the conditions.

(5) Where the Council is not satisfied that the applicant is entitled to be a registered General Practitioner, Specialist Practitioner or a Temporary Practitioner, as the case may be, it shall refuse to register the applicant.

(6) The Council shall, as soon as is practicable after it makes a decision to refuse to register an applicant, give notice in writing to the applicant of the refusal to register, the reasons for refusal and the applicant's right to appeal pursuant to this Act.

(7) If the Council decides to register an applicant subject to conditions as stated in subsection (4), it shall decide the review period applying to the conditions and give the applicant notice in writing with respect to the review period.

Internship conditions

42.— (1) This section shall apply if the Council decides to register an applicant as a General Practitioner who has satisfied the requirements of section 40(5)(a) and —

- (a) the applicant has not for the purposes of section 40(5)(b)(i) commenced or to the satisfaction of the Council completed-
 - (i) the prescribed internship; or
 - (ii) an internship for the practice of general medicine or general dentistry that is substantially equivalent to the prescribed internship; or
- (b) the applicant has completed an internship programme but the Council has decided that further internship is required.

(2) In making a decision to register an applicant as a General Practitioner where subsection (1) applies, the Council shall have regard to the following —

- (a) the duration of any internship undertaken by the applicant; and
- (b) the nature and extent of the experience gained and training undertaken, during the internship.

(3) The Council shall impose the following conditions on the registration of a person as a General Practitioner where subsection (1) applies —

- (a) if the applicant has not commenced an internship for the practice of general medicine or general dentistry-
 - (i) that the applicant may practise general medicine or general dentistry only in accordance with the prescribed internship; and
 - (ii) that the applicant shall complete the prescribed internship, to the satisfaction of the Council, within the period that is prescribed; or
- (b) if the applicant has commenced an internship for the practice of general medicine or general dentistry-
 - (i) that the applicant may practise general medicine or general dentistry only in accordance with the part of the prescribed internship decided by the Council for the applicant; and
 - (ii) that the applicant shall complete the part of the prescribed internship, to the satisfaction of the Council, within the period decided by the Council.

(4) In deciding the part of the prescribed internship to be completed and the period within which it shall be completed, the Council shall have regard to the following —

- (a) the nature, extent and experience gained, and training undertaken in the practise of general medicine or general dentistry, by the applicant during the partially completed internship; and
- (b) any reports from any person who has supervised the applicant in the practice of general medicine or general dentistry.

(5) Where the Council decides to impose conditions pursuant to subsection (3) on registration, the Council shall, as soon as is practicable, give the applicant notice of the internship conditions imposed.

Supervised practice programme conditions

43.— (1) This section shall apply if —

- (c) the Council decides to register an applicant as a General Practitioner, Specialist Practitioner or Temporary Practitioner who has satisfied the requirements of section 40(5)(a); and
- (d) for the purposes of-
 - (i) section 40(5)(b)(i), the applicant does not, in the opinion of the Council, have the relevant training or practical experience in the practice of general medicine or general dentistry;
 - (ii) section 40(5) (b)(ii), the applicant does not, in the opinion of the Council, have the relevant training or practical experience to practise medicine or dentistry in the area of specialty; or
 - (iii) section 40 (5)(b)(iii) the applicant does not, in the opinion of the Council, have the relevant training or practical experience in the practice of general medicine or general, or the relevant training or practical experience to practise medicine or dentistry in the area of specialty, as the case may be.

(2) In deciding whether the applicant has the relevant training or practical experience in the practice of general medicine or general dentistry or relevant training or practical experience to practise medicine or dentistry in an area of specialty, the Council may have regard to the following —

- (a) the nature and extent of the applicant's training or practical experience in the practice of general medicine or general dentistry or in the practice of medicine or dentistry in the area of specialty;
- (b) the advice and recommendations about the applicant from an entity recognized by the Council as competent to assess training in the practice of general medicine or general dentistry or in the practice of medicine or dentistry in the area of specialty;
- (c) specific guidelines for qualification by experience to be developed.

(3) Pursuant to subsection (1), the Council may impose the following conditions on the registration —

- (a) that the applicant shall practise general medicine or general dentistry or practise medicine or dentistry in the area of specialty, only in accordance with a supervised practice programme, approved by the Council; and
- (b) that the applicant shall complete, to the satisfaction of the Council, the supervised practice programme within the prescribed period.

(4) In deciding the content of the supervised practice programme pursuant to subsection (3)(a), and the prescribed period pursuant to subsection (3)(b), the Council may have regard to the nature and extent of the applicant's training or practical experience in the practice of general medicine or general dentistry or the applicant's training or practical experience in the practice of medicine or dentistry in the area of specialty, as the case may be.

Professional indemnity insurance

44. — (1) Subject to subsection (2), it is a condition that a person shall not practise medicine or dentistry in Saint Lucia unless —

- (a) that person secures and maintains adequate professional indemnity insurance; or
- (b) or, where that person is employed solely by an institution or other person, the institution or the other person maintains adequate professional indemnity insurance on his or her behalf;

as determined by the Council with an insurance body recognized by the Council for that purpose.

(2) Subsection (1) shall not apply to a person solely employed by the Crown.

(3) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding fifty thousand dollars.

Special grounds for refusal of registration

45. Without limiting section 36, the Council may determine that an applicant is not entitled to be registered if —

- (a) the applicant's right of practice under a foreign health care practice law has been suspended or revoked for a reason

relating to the applicant's professional conduct, competence, or capacity to practise;

- (b) the applicant has been convicted in Saint Lucia or elsewhere, of an offence of a kind that, in the opinion of the Council, makes it not in the interest of the public to allow the applicant to practise; or
- (c) the Council is of the opinion that the applicant's use of alcohol or drugs may impact on his or her ability to practise.

Certificate of registration

46.— (1) The Council shall subject to subsection (2), issue a certificate of registration to a person registered pursuant to this Part on payment of the prescribed registration fee.

(2) A certificate of registration issued pursuant to subsection (1) shall be —

- (a) in the prescribed form and shall specify the following information-
 - (i) the name of the medical practitioner or dental practitioner;
 - (ii) the category of registration;
 - (iii) the nature and character of the medical practice or dental practice which may be performed; and
 - (iv) the conditions of registration;
- (b) evidence that the person named in it is duly registered as a medical practitioner or a dental practitioner in the category specified in the certificate of registration; and
- (c) valid unless cancelled or expired pursuant to this Act.

Practising certificate

47.— (1) Where a medical practitioner or dental practitioner holds a valid certificate of registration pursuant to this Act, the medical practitioner or dental practitioner may apply in the prescribed form for a practising certificate for the purpose of carrying on the practice of medicine or dentistry in the category of registration for which the person is registered.

(2) The Council shall consider an application made pursuant to this section and may, subject to the provisions of this section, decide to issue or refuse to issue a practising certificate to the applicant.

(3) In making its decision, the Council shall have regard to the extent, if any, to which the applicant has satisfied recency of practice requirements.

(4) Before deciding on an application for issue of a practising certificate, the Council —

- (a) may investigate the applicant;
- (b) may, by notice in writing given to the applicant, require the applicant to give the Council within a reasonable time of at least thirty days as stated in the notice, further information or a document which the Council may reasonably require to decide the application for renewal; and
- (c) may, if the Council is not satisfied that the applicant has satisfied any recency of practice requirements, by notice given to the applicant, require the applicant to undergo a written, practical or oral examination within a reasonable time of at least thirty days stated in the notice and at a reasonable place.

(4) The Council may require the information or document required pursuant to subsection (3)(b) to be verified by a statutory declaration.

(5) The purpose of an examination pursuant to subsection (3)(c) shall be to assess any effect the applicant's non-satisfaction of the recency of practice requirements has on the ability of the applicant to practise the profession competently and safely.

(6) An applicant is taken to have withdrawn the application if, within the stated time, the applicant does not comply with a requirement pursuant to subsection (3)(b) or does not undergo an examination pursuant to subsection (3)(c).

(7) If the Council is not satisfied that the applicant has satisfied recency of practice requirements, the Council may issue the practising certificate of the applicant subject to such conditions the Council considers will sufficiently address the extent to which that applicant has not satisfied the requirements.

(8) Before deciding to issue a practising certificate on recency of practice conditions pursuant to subsection (3), the Council shall —

- (a) give notice in writing to the applicant-
 - (i) of the details of the proposed conditions;
 - (ii) of the reason of the proposed imposition of the conditions;
 - (iii) that the applicant may make a written submission to the Council with respect to the proposed conditions, within a reasonable time of at least fourteen days stated in the notice; and
- (b) have regard to any written submission made to the Council by the applicant.

(9) If the Council decides to issue the practising certificate on recency of practice conditions, the Council shall, as soon as is practicable, decide the review period which shall apply to the conditions and give the applicant notice in writing of the period.

(10) The Rules made pursuant to section 55(d) shall provide for the procedure for review under subsection (9).

(11) The Council may refuse to issue a practising certificate —

- (a) if the medical practitioner or dental practitioner fails to pay the prescribed practising certificate fee;
- (b) if the medical practitioner or dental practitioner fails to provide any information required by the Council by a date specified by the Council;
- (c) if the medical practitioner or dental practitioner has not practised for a period of time as specified by the Council unless the Council is satisfied that he or she complies with the requirements of section 40; or
- (d) if the medical or dental practitioner fails to meet the recency of practice requirements.

(12) A practicing certificate shall not be issued unless the Council is satisfied that the medical practitioner or dental practitioner to whom the practicing certificate is to be issued —

- (a) has adequate professional indemnity insurance in place; or

- (b) is exempt from the requirement of professional indemnity insurance;

in accordance with section 44.

(13) Where the Council decides to grant a practising certificate pursuant to this section, the practising certificate shall be issued on payment of the prescribed practising certificate fee.

(14) A practising certificate shall be —

- (a) in the prescribed form and shall specify the following information-
 - (i) the name of the medical or dental practitioner;
 - (ii) the category of registration;
 - (iii) the nature and character of the medical practice or dental practice which may be performed; and
 - (iv) the conditions of registration and practice; and
- (b) evidence that the person named in it is duly certified to practise medicine or dentistry in the category of registration specified in the practising certificate.

(15) A practising certificate shall be valid for a period of —

- (a) two years in the case of a General Practitioner or a Specialist Practitioner registered pursuant to this Part;
- (b) six months in the case of a Temporary Practitioner registered pursuant to this Part; or
- (c) the duration of a state of emergency, in the case of a registration of a medical practitioner or dental practitioner registered pursuant to section 39;

unless suspended or revoked pursuant to this Act and is renewable.

(16) The Council shall, as soon as is practicable after it makes a decision to refuse to issue a practicing certificate to an applicant, give notice in writing to the applicant of the refusal to issue the practicing certificate, the reasons for refusal and the applicant's right to appeal pursuant to this Act.

Display of practising certificate

48. The holder of a practising certificate shall display the certificate in a prominent place.

Application for renewal

49.— (1) Subject to subsections (2) and (3), a medical practitioner or dental practitioner shall apply to the Council for the renewal of his or her practising certificate.

(2) An application made pursuant to subsection (1) shall only be decided by the Council if it is received within the period starting sixty days before the expiry of the practising certificate and ending immediately before the expiry of the practising certificate.

(3) An application made pursuant to subsection (1) shall —

- (a) be in the prescribed form; and
- (b) be accompanied by-
 - (i) the prescribed renewal fee; and
 - (ii) evidence of continuing professional development and continuing medical education;
 - (iii) any documents or information which the Council reasonably requires to decide the application.

(4) The information in the application pursuant to subsection (3) shall be verified by a statutory declaration.

Practising certificate taken to be in force while application is considered

50. — (1) If an application for renewal is made pursuant to section 49, the applicant's practising certificate is taken to continue in force from the day it would, apart from this section, have expired until —

- (a) if the Council decides to renew the practising certificate, the day the renewal is issued to the applicant pursuant to section 52;
- (b) if the Council decides to refuse to renew the practising certificate, the day the notice of the decision to refuse the application for renewal is given to the applicant pursuant to section 52; or

(c) if the application is taken to have been withdrawn pursuant to section 51(3), the day it is taken to have been withdrawn.

(2) Subsection (1) shall not apply if the practising certificate has been suspended in accordance with the provisions of this Act.

Inquiries into application

51.— (1) Before determining an application for renewal, the Council—

- (a) may investigate the applicant;
- (b) may, by notice in writing given to the applicant, require the applicant to give the Council, within reasonable time of at least thirty days as stated in the notice, further information or a document which the Council may reasonably require to determine the application for renewal; and
- (c) may, if the Council is not satisfied that the applicant has satisfied any recency of practice requirements, by notice given to the applicant, state conditions under which an application may be reconsidered.

(2) The Council may require the information or document required pursuant to subsection (1) (b) to be verified by a statutory declaration.

(3) An applicant is taken to have withdrawn the application if, within the stated time, the applicant does not comply with a requirement pursuant to subsection (1)(b) or does not undergo an examination pursuant to subsection (1)(c).

Decision

52.— (1) The Council shall consider the application and decide to renew or refuse to renew the applicant's practising certificate.

(2) In making its decision, the Council shall have regard to the extent, if any, to which the applicant has satisfied recency of practice requirements.

(3) If the Council is not satisfied that the applicant has satisfied recency of practice requirements, the Council may renew the practising

certificate of the applicant, subject to such conditions the Council considers will sufficiently address the extent to which that applicant has not satisfied the requirements.

(4) Before deciding to renew a practising certificate on recency of practice conditions pursuant to subsection (3), the Council shall—

- (a) give notice in writing to the applicant-
 - (i) of the details of the proposed conditions;
 - (ii) of the reason for the proposed imposition of the conditions;
 - (iii) that the applicant may make a written submission to the Council with respect to the proposed conditions, within a reasonable time of at least fourteen days stated in the notice; and
- (b) have regard to any written submission made to the Council by the applicant.

(5) If the Council decides to renew the practising certificate on recency of practice requirements, the Council shall, as soon as is practicable, decide the review period which shall apply to the conditions and give the applicant notice in writing of the period.

(6) The Rules made pursuant to section 55(d) shall provide for the procedure for review under subsection (5).

Discretion to refuse to renew practising certificate

53.— (1) The Council may refuse to renew a practising certificate—

- (a) if the medical practitioner or dental practitioner fails to pay the prescribed practising certificate fee;
- (b) if the medical practitioner or dental practitioner fails to provide any information required by the Council by a date specified by the Council;
- (c) if the medical practitioner or dental practitioner has not practised for a period of time as specified by the Council unless the Council is satisfied that he or she complies with the requirements of section 40; or

(d) if the medical practitioner or dental practitioner fails to meet the recency of practice requirements.

(2) The Council shall, as soon as is practicable after it makes a decision to refuse to renew a practicing certificate to an applicant, give notice in writing to the applicant of the refusal to renew the practising certificate, the reasons for refusal and the applicant's right to appeal pursuant to this Act.

Claims for fees

54.— (1) A person who practises medicine or dentistry in contravention of this Act is not entitled to maintain any action for recovery of any fee on account of or in relation to any health service provided by that person in the course of the practice of medicine or dentistry.

(2) A person who holds a valid certificate of registration and a valid practising certificate shall be entitled to demand and to recover, in any court of competent jurisdiction, his or her charges for professional aid, advice and visit, and the cost of any medicine or surgical appliances rendered or supplied by the person to his or her patients.

DIVISION 4

Rules

Rules of Council

55. Subject to the approval of the Minister, the Council may make rules for any of the following matters —

- (a) the proper conduct of its affairs, including the time, manner and place of its meetings and its proceedings;
- (b) the determination of professional conduct and general fitness to practise medicine or dentistry;
- (c) the conduct of examinations and matters relating to such examination;
- (d) the implementation of a procedure with respect to the review of recency of practice requirements;
- (e) the implementation of a Code of Ethics for medical practitioners and dental practitioners;
- (f) the requirements for residency training;

- (g) the qualification and eligibility requirements for a person who wishes to obtain the permission of the Council to –
 - (i) research or teach medicine or dentistry;
 - (ii) conduct research that involves human subjects; or
 - (iii) use and dispose of human material;
- (h) permission to carry on any of the activities specified in paragraph (g);
- (i) any other matter which the Council may deem necessary for the effective implementation of the provisions of this Part.

PART III
ALLIED HEALTH
DIVISION 1
Preliminary

Interpretation

56. In this Part —

“allied health practitioner” means a person who is registered pursuant to the provisions of this Part;

“allied health profession” means any profession specified in the Schedule;

“Chairperson” means a person selected pursuant to section 65;

“Council” means the Allied Health Council established pursuant to section 58;

“Deputy Chairperson” means a person appointed pursuant to section 65;

“licence” means an allied health practitioner licence issued pursuant to section 93;

“Medical and Dental Council” means the Medical and Dental Council established pursuant to section 5.

Declaration of allied health profession

57.— (1) The professions listed in the Schedule are hereby declared to be allied health professions for the purposes of this Act.

(2) Subject to subsection (3), after consultation with the Council, the Minister may by Order, amend the Schedule.

(3) An Order pursuant to subsection (2) to amend the Schedule to declare a profession to be an allied health profession shall not be made unless —

- (a) the Minister has given interested persons, organizations and other bodies an opportunity to make representations to him or her concerning the proposed declaration; and
- (b) the Minister, subject to subsection (4), considers that it is appropriate and in the public interest that the profession be declared as such pursuant to this Act.

(4) In considering, for the purposes of subsection (3) (b), whether it is appropriate and in the public interest that a profession be declared as an allied health profession, the Minister shall have regard to the following factors —

- (a) the extent to which the profession has a defined scope of practice and applies a distinct body of knowledge;
- (b) the extent to which the profession has established itself, including whether there is at least one professional body representing a significant portion of the practitioners of the profession;
- (c) the existence of defined routes of entry into the profession and of independently assessed entry qualifications;
- (d) the allied health profession's commitment to continuous professional development;
- (e) the degree of risk to the health, safety or welfare of the public; and
- (f) any other factors that the Minister considers relevant.

DIVISION 2
Allied Health Council

Establishment of Council

58.— (1) There is hereby established a body to be known as the Allied Health Council.

(2) The Council is a body corporate to which section 19 of the Interpretation Act, Cap. 1.06 applies.

Board of Council

59.— (1) The affairs of the Council shall be administered by a Board that subject to section 60, shall comprise the following seven members—

- (a) the Chief Medical Officer, who shall be an ex-officio member;
- (b) the following persons who shall be nominated and appointed by the Minister;
 - (i) three allied health practitioners;
 - (ii) a medical practitioner;
 - (iii) an attorney-at-law of at least eight years standing; and
 - (iv) a member of the public who is not an allied health practitioner; and
- (c) Chairperson of the Medical and Dental Council or another member of the Medical and Dental Council nominated by the Medical and Dental Council and appointed by the Minister.

(2) The appointments made pursuant to subsection (1) (b) (i) of this section shall be a representation of the varying allied health professions listed in the Schedule.

Disqualification from being a member of Board

60. A person is disqualified from being a member of the Board and shall not become or continue to be appointed as a member of the Board if the person is or has been —

- (a) declared a bankrupt pursuant to Chapter 9 of the Commercial Code, Cap. 244;
- (b) declared by a court to be physically or mentally incapacitated by reason of unsoundness of mind;
- (c) convicted of a criminal offence except where the offence is a minor traffic offence or has been spent in accordance with the Criminal Records (Rehabilitation of Offenders) Act 2004, No. 2; or

(d) convicted of an offence pursuant to the provisions of this Act.

Functions of Council

61. The Council shall have the following functions —

- (a) to assess and determine applications for registration as allied health practitioners;
- (b) to register persons who satisfy the requirements for registration as allied health practitioners;
- (c) to monitor, and assess whether an allied health practitioner complies with the conditions of this Act;
- (d) to investigate complaints against allied health practitioners referred to it by the Commission and of its own motion.
- (e) to ensure compliance with prescribed standards of practice for allied health practitioners, including codes of professional conduct and ethics;
- (f) to advise the Minister, either on its own initiative or at the request of the Minister, on all matters relating to its functions pursuant to this Act;
- (g) to encourage all bodies or associations relating to the allied health professions listed in the Schedule to collaborate with each other where practicable, including in the professional and educational training of allied health practitioners;
- (h) to develop or adopt training programmes in the practice of the varying allied health professions that are relevant to a person's eligibility for registration;
- (i) to promote high standards of professional conduct and professional education, training and competence among persons registered as allied health practitioners;
- (j) to monitor and enforce compliance with this Act;
- (k) to do such other things as may be necessary and reasonable to further its objects in accordance with this Part; and
- (l) to perform any other functions assigned to it by the Minister.

Independence of Council

62. In performing its functions and exercising its powers, the Council shall act independently, impartially and in the public interest.

Delegation by Board

63.— (1) Subject to subsection (2), the Board may delegate its functions under this Act to —

- (a) a member of the Board; or
- (b) a committee of the Board appointed pursuant to section 80.

(2) The Board shall not delegate its power under this Act to —

- (a) approve or refuse registration;
- (b) cancel registration;
- (c) impose or remove conditions of registration;
- (d) enter into a service agreement; or
- (e) issue a licence.

Seal

64.— (1) The Council shall have an Official Seal.

(2) The affixing of the Official Seal of the Council shall be in the presence of, and witnessed by the signature of —

- (a) the Chairperson or the Deputy Chairperson; and
- (b) the Executive Director.

(3) All documents which are executed by the Board, other than those required by law to be under seal, and all decisions of the Board shall be signed by —

- (a) the Chairperson or any other member duly authorized in writing by the Chairperson to act on behalf of the Chairperson; and
- (b) the Executive Director.

Chairperson and Deputy Chairperson of the Board

65.— (1) At the first meeting of the Board, the members of the Board shall elect a Chairperson and a Deputy Chairperson from among its membership.

(2) The Deputy Chairperson shall act as Chairperson of the Board —

- (a) during a vacancy in the office of the Chairperson;
- (b) during all periods when the Chairperson is absent from duty or, for any other reason, is unable to perform the functions of his or her office.

Terms of appointment

66. A member of the Board shall hold office for a period not exceeding five years and shall be eligible for reappointment.

Resignation

67. A member of the Board may resign from membership of the Council by submitting a notice of resignation in writing to the Minister.

Revocation

68. The Minister may, at any time in writing, revoke the appointment of a member of the Board appointed pursuant to section 59(1)(b) or (c), revoke the appointment of any member of the Board if, upon evidence, the Minister is satisfied that the member is —

- (a) disqualified from being a member of the Board pursuant to section 60;
- (b) guilty of neglect of duty, misconduct or malfeasance; or
- (c) has failed to act in the best interests of the Council.

Vacation

69.— (1) A member of the Board is taken to have vacated his or her office if the member —

- (a) resigns pursuant to section 67 ;
- (b) is disqualified pursuant to section 60; or
- (c) is absent without the permission of the Board from three consecutive meetings of the Board of which due notice has been given.

(2) In addition to the circumstances stated in subsection (1), a member of the Board appointed pursuant to sections 59(1)(b)(i) and (ii), is also taken to have vacated his or her office if the member

ceases to be registered as a medical practitioner, a dental practitioner or an allied health practitioner registered pursuant to the provisions of this Act.

Leave of absence for a member

70. — (1) The Minister may approve a leave of absence for a member of the Board for a period not exceeding three months.

(2) The Minister may appoint an alternate member to act in the office of the member of the Board while the member is absent on approved leave pursuant to subsection (1).

(3) A person appointed pursuant to subsection (2) shall belong to the same category of persons to which the member of the Board who has been granted leave belongs.

Effect of vacancy of membership

71. The validity of any proceedings of the Board shall not be affected by any vacancy amongst the members of the Board or by any defect in the appointment of a member of the Board.

Remuneration

72. A member of the Board shall be entitled to be paid such fees and allowances as prescribed.

Executive Director

73.— (1) The affairs of the Board shall be managed by an Executive Director who shall be appointed by the Board upon such terms and conditions as it may determine.

(2) The Executive Director shall perform all the functions entrusted to him or her under this Act and shall attend all meetings of the Council unless —

- (a) the Executive Director is instructed by the Chairperson of a meeting to withdraw; or
- (b) the Executive Director has obtained leave of absence or is prevented from attending for good cause.

(3) The Board may, during the absence of the Executive Director, appoint a person to act as Executive Director upon such terms and conditions as the Board may determine.

Secretary and staff

74.— (1) The Board shall appoint a person at such salary and upon such terms and conditions as it may determine to perform the functions of Secretary to the Board.

(2) The Secretary shall perform all the functions entrusted to him or her pursuant to this Act and shall perform such additional duties as may be assigned to him or her by the Executive Director.

(3) The Board may appoint such staff as it may require for the proper carrying out of its functions pursuant to this Act.

(4) A person appointed pursuant to subsection (1) shall perform the duties assigned to him or her by the Board.

Council to regulate own procedure

75.— (1) Subject to this Act and to the Regulations, the Board shall regulate its own procedure.

(2) The Board shall cause to be kept minutes of the proceedings of its meetings and of meetings of any of the committees established by it.

Meetings

76.— (1) Meetings of the Council shall be held at the times and place the Chairperson shall decide.

(2) Notwithstanding subsection (1), the Chairperson shall call a meeting if asked, in writing, to do so by the Minister or by three members of the Board.

Quorum

77. The quorum for a meeting of the Board shall be five.

Presiding at meetings

78.— (1) The Chairperson shall preside at all meetings of the Board at which he or she is present.

(2) If the Chairperson is absent from a meeting of the Board, but the Deputy Chairperson is present, the Deputy Chairperson shall preside.

(3) If the Chairperson and the Deputy Chairperson are both absent from a meeting of the Council, the members shall select a member present at the said meeting to preside.

Conduct of meetings of the Board

79.— (1) All decisions of the Board shall be decided by a majority of members present and voting at the meeting and, in the event of an equality of votes, the Chairperson shall have a casting vote.

(2) A resolution is validly made by the Board even if it is not passed at a meeting of the Board, if —

- (a) a majority of the members give written agreement of the resolution; and
- (b) notice of the resolution is given under the procedures approved by the Council.

(3) The Board shall keep in the minutes of its meetings, a record of any resolution made pursuant to subsection (2).

Committees of the Board

80.— (1) The Board may establish committees of the Board for effectively and efficiently performing its functions.

(2) The chairperson of a committee established pursuant to subsection (1) shall be a member of the board.

(3) The Board shall decide the terms of reference of a committee.

(4) The functions of the committee shall be —

- (a) to advise and make recommendations to the Board with respect to matters within the scope of the functions of the Council, referred by the Council to the committee; and
- (b) subject to section 63, to exercise the powers delegated to it by the Council.

(5) A committee shall keep a record of any decision it makes when exercising a power delegated to it by the Board.

(6) A member of the committee shall be entitled to be paid such fees and allowances as determined by the Board.

Declaration of interest and abstention from voting

81.— (1) A member of the Board who is in any way, either directly or indirectly, interested in a matter before the Council shall declare the nature of his or her interest at the first meeting of the Board at which it is practicable to do so and shall leave the meeting upon the matter coming up for discussion.

(2) A declaration and the departure of a member of the Board from the meeting in accordance with subsection (1) shall be noted in the minutes of the meeting.

(3) A member of the Board shall not —

- (a) vote in respect of a matter before the Board in which he or she is in any way interested, whether directly or indirectly; or
- (b) seek to influence the vote of any other member of the Board in relation to the matter.

(4) A member of the Board who fails to comply with subsection (3) commits an offence and upon summary conviction is liable to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both.

(5) Notwithstanding subsection (4), where a member of the Board fails to comply with subsection (3), the failure to comply amounts to misconduct in which case section 68 shall apply.

Directions by Minister

82.— (1) The Minister may give the Board a written direction in relation to a matter relevant to the performance of its functions pursuant to this Act, if the Minister is satisfied that it is necessary to give the direction in the public interest.

(2) Without limiting subsection (1), the direction may be to —

- (a) give reports and information; or
- (b) apply to the Council a policy, standard or other instrument applying to a public sector unit.

(3) A direction issued pursuant to subsection (1) shall not be in relation to —

- (a) the registration or refusal of an applicant;
- (b) the suspension or revocation of a licence issued pursuant to this Act; or
- (c) the imposing or removal of conditions on the registration of an applicant.

Funds of Council

83. The Funds of the Council shall consist of such monies as may, from time to time, be placed at its disposal for the purpose of this Act by Parliament and such other monies as may be lawfully paid to the Council.

Accounts

84. The Council shall keep proper records of its accounts in accordance with generally accepted international standards and principles and shall prepare and retain financial statements in respect of each financial year.

Audit

85. — (1) The Council shall, as soon as is practicable after each financial year, have its accounts audited annually by an independent auditor appointed by the Council who shall conduct the audit in accordance with generally accepted international auditing standards and principles.

(2) The Council and its employees shall grant to the auditor appointed pursuant to subsection (1) access to all books, deeds, contracts, accounts, vouchers or other documents which the auditor deems necessary and the auditor may require the person holding or accountable for such document to appear, make a signed statement or provide such information in relation to the document as the auditor deems necessary.

(3) A person who is required to appear, make a signed statement or to provide information pursuant to subsection (2) and who fails to comply, commits an offence and upon summary conviction is liable to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding two months or to both, and to revocation of his or her appointment as a member of the Council or a committee appointed by the Council pursuant to section 80.

Auditor's report

86. An auditor appointed pursuant to section 85 shall, as soon as is practicable and not later than two months after the end of each financial year, submit copies of the audited financial statement of the Council.

Annual report

87.— (1) Subject to subsection (2) and not later than three months after the end of each financial year, the Council shall submit to the Minister an annual report on the work and activities of the Council for that financial year and the Minister shall, lay the same at the next sitting of Parliament after receipt of the report.

(2) An annual report pursuant to subsection (1) shall be accompanied by the auditor's report made pursuant to section 86.

(3) A summary of an annual report pursuant to subsection (1) shall be published in the *Gazette* and the entire annual report shall be available to the public on payment of the prescribed fee to the Council.

DIVISION 3*Registration and licence***Requirement to be registered**

88.— (1) A person shall not practise as an allied health practitioner in any allied health profession or hold himself or herself out to be an allied health practitioner unless the person is registered as an allied health practitioner pursuant to this Part and complies with this Act, the Regulations and the conditions of registration.

(2) A person shall not practise as an allied health practitioner in any allied health profession specified in Schedule 1 or hold himself or herself out to be an allied health practitioner unless the person holds a valid licence pursuant to this Part and complies with this Act, the Regulations and the conditions of registration.

(3) A person who contravenes —

(a) subsection (1) only; or

(b) subsections (1) and (2) at the same time;

commits an offence and is liable to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding three years.

(4) A person who contravenes subsection (2) without contravening subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars.

(5) For the purposes of this section a person holds himself or herself out to be an allied health practitioner by using or taking the title of, or pretending to be in an allied health profession and implying that he or she is qualified to practise as an allied health practitioner

Registration of persons practising in an allied health profession prior to commencement of Act

89.— (1) Subject to subsection (2), a person who has been practising in an allied health profession immediately prior to the commencement of this Act who wishes to continue to practise in the allied health profession after the commencement of this Act shall require registration and a valid licence and shall apply for registration and the licence in accordance with this Part.

(2) During the period of six months after the commencement of this Act, no action for an offence pursuant to section 88 shall be taken against a person who has been practising in an allied health profession immediately prior to the commencement of this Act.

Eligibility of registration

90. For the purposes of this Part, a person is an eligible person to be registered to practise as an allied health practitioner if the person —

- (a) holds a degree, diploma or licence from a university or other institution, which is authorized to offer training in that particular discipline of the allied health profession for which the applicant requires to be registered; or
- (b) holds a certificate from the membership of a health society recognized by the national registration agency of the country where the qualification was obtained as furnishing sufficient guarantee that he or she possesses the requisite knowledge and skill for the efficient practice as an allied health practitioner; and
- (c) shows to the satisfaction of the Council that he or she is a person of good character and otherwise fulfills the conditions prescribed by this Act.

Application for registration

91.— (1) An eligible person who wishes to be registered to practise as an allied health practitioner shall make an application to the Council in the prescribed form, accompanied by the prescribed fee and shall submit such evidence as may be required to establish that he or she is eligible for registration pursuant to the provisions of this Part.

(2) The evidence submitted pursuant to subsection (1) shall include a declaration on oath of proof of the applicant's identity and good character, and of the authenticity of any diploma or certificate submitted in support of the application.

Determination of application

92.— (1) In determining an application for registration pursuant to this Part, the Council —

- (a) may investigate the applicant;
- (b) may, by notice given to the applicant, require the applicant to give the Council within a reasonable time of at least thirty days as stated in the notice, further information or a document the Council reasonably requires to decide the application; and
- (c) may by notice given to the applicant, require the applicant to fulfill conditions as stated in the notice.

(2) The Council may require the information or document required pursuant to subsection (1) (b) to be verified by a statutory declaration.

(3) The purpose of an examination pursuant to subsection (1) (c) shall be to assess the applicant's ability to practise the allied health profession competently and safely.

Registration of applicant and issue of licence

93.— (1) Where the Council is satisfied that an applicant has met the requirements of section 90, the Council shall register the applicant and shall subject to subsections (2) and (3), issue to the applicant an allied health practitioner licence.

- (2) A licence issued pursuant to subsection (1) shall —
- (a) be in the prescribed form;
 - (b) state the allied health profession to which the applicant is entitled to practise;
 - (c) be issued on payment of the prescribed licence fee; and

(d) be valid for a period of one year unless suspended or revoked pursuant to this Act and is renewable.

(3) A licence issued pursuant to this section may contain such terms and conditions as the Council deems necessary and shall be evidence that the person named in the licence is registered to practice as an allied health practitioner subject to the conditions, if any specified in the licence.

(4) Before deciding to issue a licence subject to conditions, the Council shall —

- (a) give notice to the applicant-
 - (i) of the details of the proposed conditions;
 - (ii) of the reason for the proposed imposition of the condition; and
 - (iii) that the applicant may make a written submission to the Council with respect to the proposed conditions within a reasonable time of at least fourteen days stated in the notice; and
- (b) have regard to any written submission made to the Council by the applicant.

(4) If the Council decides to register the allied health practitioner and issue the licence subject to conditions, the Council shall, as soon as is practicable, decide the review period which shall apply to the conditions and give the applicant notice of its decisions.

(5) Rules made pursuant to section 99(1)(d) shall provide for the procedure for review under subsection (4).

(6) A licence shall not be issued under this Part unless the Council is satisfied that the allied health practitioner to whom the licence is to be issued has adequate professional indemnity insurance or coverage arrangements in place as determined by the Council.

Licence as evidence of entitlement to practice

94. A licence issued pursuant to section 93 shall be evidence until the due date or the date determined by the Council, that the allied health practitioner is entitled to practise as such and to recover, in any court of competent jurisdiction, his or her fees or charges for professional aid and advice rendered to his or her patients.

Application for renewal

95.— (1) Subject to subsections (2) and (3), an allied health practitioner shall apply to the Council for the renewal of his or her licence.

(2) An application pursuant to subsection (1) shall only be decided by the Council if it is received within the period starting sixty days before the expiry of the licence and ending immediately before the expiry of the licence.

(3) The application shall —

(a) be in the prescribed form; and

(b) be accompanied by-

(i) the prescribed renewal fee; and

(ii) any documents identified in the prescribed form, which the Council reasonably requires to determine the application.

(4) The information in the application pursuant to subsection (3) shall be verified by a statutory declaration.

Licence taken to be in force while application is considered

96.— (1) If an application for renewal is made pursuant to section 95, the applicant's licence is taken to continue in force from the day it would, apart from this section, have expired until —

(a) if the Council decides to renew the licence, the day the renewal is issued to the applicant under section 97;

(b) if the Council decides to refuse to renew the licence, the day the notice of the decision is given to the applicant pursuant to section 97; or

(c) if the application is taken to have been withdrawn pursuant to section 92(4), the day it is taken to have been withdrawn.

(2) Subsection (1) shall not apply if the licence has been earlier suspended in accordance with the provisions of this Act.

Decision

97.— (1) The Council shall consider the application and decide to renew or refuse to renew, the applicant's licence.

(2) In making its decision, the Council shall have regard to the following —

- (a) whether the applicant has complied with any prescribed code of conduct; and
- (b) whether the applicant has undergone any additional training or acquired any additional experience in his or her field of practice as an allied health practitioner.

(3) If the Council is not satisfied that the applicant has satisfied the requirements of subsection (2), the Council may renew the licence subject to such conditions the Council considers will sufficiently address the extent to which that applicant has not satisfied the requirements.

(4) Before deciding to renew a licence subject to conditions, the Council shall —

- (a) give notice to the applicant-
 - (i) of the details of the proposed conditions;
 - (ii) of the reason of the proposed imposition of the condition; and
 - (iii) that the applicant may make a written submission to the Council with respect to the proposed conditions, within a reasonable time of at least fourteen days stated in the notice; and
- (b) have regard to any written submission made to the Council by the applicant.

(5) If the Council decides to renew the licence, the Council shall, as soon as is practicable decide the review period which shall apply to the conditions and give the applicant notice of its decisions.

(6) Rules made pursuant to section 99 (1) (d) shall provide for the procedure for review under subsection (5).

(7) If the Council decides to renew a licence in accordance with the provisions of this Part, the Council shall as soon as is practicable issue a new licence to the applicant.

Refusal of issuance of licence

98. The Council may refuse to renew a licence —

- (a) if an allied health practitioner fails to pay the prescribed licence fee;
- (b) if the allied health practitioner fails to provide any information required by the Council by a date specified by the Council;
- (c) if the allied health practitioner has not practised for a period of time as specified by the Council unless the Council is satisfied that he or she complies with the requirements of section 90;
- (d) if the allied health practitioner has not undergone any additional training or acquired additional experience in his or her field of practice.

DIVISION 4*Rules***Rules of Council**

99.— (1) Subject to the approval of the Minister, the Council may make rules for any of the following purposes —

- (a) the conduct of examinations and related matters;
- (b) specifying the nature of the services which may be rendered by an allied health practitioner in any allied health profession;
- (c) the formation of special committees for any allied health profession, and the determination of the functions of members of such committees;
- (d) the implementation of procedures with respect to the review of recency of practice requirements;
- (e) the determination of professional conduct and general fitness to practise any allied health profession;
- (f) providing for the approval of the establishment, maintenance and policy of schools or training centres for the education and training of persons desiring to be trained in any allied health profession;

- (g) the implementation of codes of conduct for the varying allied health professions; and
- (h) any other matter which the Council may deem necessary for the effective implementation of the provisions of this Part.

(2) Rules made pursuant to this section may contain different provisions in relation to allied health professions.

PART IV
KEEPING OF REGISTERS

Registers

100.— (1) The relevant Council shall keep and maintain a register.

(2) The register kept and maintained by the Medical and Dental Council shall be called the Register of Medical and Dental Practitioners.

(3) The register kept and maintained by the Allied Health Council shall be called the Register of Allied Health Practitioners.

(4) Upon registration of a person in accordance with the provisions of this Act, the relevant Council shall enter the name of the person in the register kept in accordance with subsections (2) and (3).

(5) A person whose name is not entered in the Register of Medical and Dental Practitioners shall not be entitled to practise as a medical practitioner or dental practitioner in Saint Lucia.

(6) A person whose name is not entered in the Register of Allied Health Practitioners shall not be entitled to practise as an allied health practitioner in Saint Lucia.

(7) The relevant Council shall record the following information in the register in relation to each person to whom it has granted registration —

- (a) the name, personal address and business address, of a health practitioner, if any;
- (b) the qualifications which are held by the health practitioner;
- (c) the date of registration of the health practitioner;
- (d) any conditions to which the registration of a health practitioner is subject to, in accordance with the provisions of this Act ;

- (e) in the case of a medical practitioner or dental practitioner, the area of specialty, if any, under which a practising certificate is issued;
- (f) the allied health profession under which the allied health practitioner is authorized to practice;
- (g) the period of suspension of a practising certificate or a licence if applicable;
- (h) the removal of the name of a health practitioner from the Medical and Dental Practitioners or the Register of Allied Health Practitioners;
- (i) the restoration of the name of a health practitioner to the Register of Medical and Dental Practitioners or the Register of Allied Health Practitioners;
- (j) any change in the name, personal address or business address of a health practitioner; and
- (k) any other information that the Council considers necessary.

(7) A register kept and maintained pursuant to this section may be kept in electronic form.

(8) A register kept and maintained pursuant to this section shall at all reasonable times be open to inspection by the public at the office of the relevant Council and a search may be effected and extracts of the register may be obtained by the public upon payment of the prescribed fee.

(9) The relevant Council shall from time to time, make alterations in the register kept and maintained pursuant to this section in relation to the addresses and qualifications of health practitioners as are necessary.

(10) Notwithstanding subsection (8), the private address of a health practitioner shall not appear in a register kept pursuant to this section that is made available for public inspection.

Removal from register

101.— (1) The relevant Council may remove from a register kept by it, the name of a health practitioner who —

- (a) contravenes a condition subject to which he or she is registered;

- (b) fails to pay, within the specified time a fine imposed on the health practitioner pursuant to section 109;
- (c) fails to comply with a requirement made of the health practitioner pursuant section 109;
- (d) fails to honour an undertaking given to the relevant Council, or Tribunal; or
- (e) fails to honour an undertaking given pursuant to the provisions of the Health Services (Complaints and Conciliation) Act 2001, No. 34.

(2) The removal of the name of a health practitioner from the Register of Medical and Dental Practitioners or the Register of Allied Health Professionals signifies the revocation of registration of the health practitioner issued in accordance with the provisions of this Act.

(3) The relevant Council shall remove from the register kept by it the name of a health practitioner —

- (a) who dies;
- (b) who requests the relevant Council to remove his or her name from the register;
- (c) in respect of whom the Council has made a decision to cancel registration pursuant to section 109;
- (d) who has been registered by reason of a false or misleading statement or declaration; or
- (e) who fails to pay the prescribed practising certificate fee or prescribed licence fee by the due date or date specified by the relevant Council.

(4) The relevant Council shall not remove the name of a health practitioner from the register under subsection (1) or (2) (d) or (e) without first giving the health practitioner a reasonable opportunity to be heard.

(5) If, except in the case of subsection (3)(a), the relevant Council removes the name of a health practitioner from the register pursuant to this section, it must immediately give the health practitioner notice in writing of the removal.

(6) A notice under subsection (5) shall —

- (a) except if subsection (3)(b) applies, specify the reasons for the removal; and
- (b) except if subsection (3) (b) applies, inform the health practitioner of his or her right of appeal.

(7) A notice under subsection (5) shall be served personally on, or sent by post to, the health practitioner whose name has been removed from the register.

(8) On notice being served or delivered, a person ceases to be a health practitioner and the relevant Council shall publish a notice to that effect in the *Gazette*.

(9) Where the relevant Council removes the name of a health practitioner from the register kept by it, the relevant Council may require that a specified period shall elapse or that a specified condition be fulfilled before the person may apply to be registered.

Surrender of practising certificate or licence

102. A health practitioner who is given notice, under section 101, that his or her name has been removed from the register shall surrender —

- (a) in the case of a medical practitioner or dental practitioner, his or her certificate of registration and practising certificate;
- (b) in the case of an allied health practitioner, his or her licence;

within fourteen days after receiving the notice or such longer time that the Council allows and specifies in the notice.

Evidentiary provisions

103.— (1) A copy of an entry in a register kept by the relevant Council purporting to be signed by the Chairperson of the relevant Council shall be evidence that the entry was duly made.

(2) A certificate purporting to be signed by the Chairperson of the relevant Council and stating one or more of the following matters shall be evidence of the matters stated —

- (a) a person specified in the certificate was or was not registered on a date or during a period stated in the certificate;

- (b) the registration of a person stated in the certificate was subject to a condition specified in the certificate on a date or for a period specified in the certificate;
- (c) the registration of a person specified in the certificate was suspended on a date or for a period specified in the certificate;
- (d) the name of the person specified in the certificate was removed from the register kept by the relevant Council on a date or for a period specified in the certificate;
- (e) a person specified in a certificate was not the holder of a licence or a practising certificate on a date or during a period specified in the certificate.

PART V
PROFESSIONAL CONDUCT

DIVISION I
Complaints

Making complaints

104.— (1) A person who is aggrieved by the conduct of a health practitioner, may complain to the Commission.

(2) The Commission or the relevant Council may, on its own motion, lodge a complaint in respect of the conduct of a health practitioner.

Specific matters in respect of which a complaint may be made

105.— (1) Without limiting the matters in respect of which a complaint may be made, pursuant to section 104, a complaint may be made that a health practitioner —

- (a) has been registered by reason of a false or misleading statement or declaration;
- (b) no longer holds or is no longer entitled to hold, a qualification by reason of which the health practitioner was registered ;
- (c) does not have the capacity to practise competently;
- (d) is not entitled on other grounds to be registered; or
- (e) commits an act of professional misconduct.

(2) Without limiting the matters that may constitute professional misconduct, a health practitioner commits an act of misconduct if he or she —

- (a) contravenes any of the provisions of this Act;
- (b) contravenes a provision of a prescribed code of conduct relevant to his or her category of health care practice;
- (c) contravenes a condition subject to which the health practitioner is registered;
- (d) practises without a valid practising certificate or without a valid licence;
- (e) practises medicine or dentistry in an area of specialty without being registered to do so;
- (f) practises in an allied health profession when he or she is not licensed to do so;
- (g) fails to pay, within a specified period, a fine imposed on the health practitioner pursuant to section 109;
- (h) fails to comply with a requirement made of the health practitioner pursuant to section 109;
- (i) fails to honour an undertaking given to the relevant Council under this Act or the Commission pursuant to the provisions of the Health Services (Complaints and Conciliation) Act, 2001, No. 34;
- (j) performs his or her duties in a negligent or incompetent manner; or
- (k) behaves in a fraudulent or dishonest manner.

Complaints procedure

106. — (1) A complaint pursuant to this Part shall —

- (a) be made in writing;
- (b) contain particulars of the matter complained of;
- (c) identify the health practitioner against whom the complaint is being made;
- (d) identify the complainant;

- (e) contain a statement that the complainant consents to a copy of the complaint or particulars of the complaint being given to the health practitioner; and
- (f) be lodged with the Commission.

(2) The Commission shall ensure that a person who wishes to make a complaint in respect of a health practitioner is given reasonable assistance to enable the person to make a complaint in accordance with this section.

(3) On receiving or initiating a complaint, the Commission shall deal with the complaint in accordance with the Health Services Complaints and Conciliation Act 2001, No. 34 and may in accordance with that Act refer the matter to the relevant Council for determination.

(4) On receiving a complaint pursuant to subsection (1) or on initiating a complaint of its own motion the relevant Council shall —

- (a) record the date on which the complaint was received or initiated ; and
- (b) within thirty days of receipt or initiation of the complaint, determine whether to accept or reject the complaint.

(5) The relevant Council may require the complainant to provide further particulars of a complaint.

(6) The rules of procedural fairness shall be observed in determining a complaint under this Part.

Certain complaints to be dismissed

107. The relevant Council shall dismiss a complaint if it considers that —

- (a) the complaint is without foundation or frivolous or vexatious;
- (b) the matter complained of is not substantial.

Investigation of complaints

108. Subject to section 109, the relevant Council or a committee of the relevant Council established under section 28 or section 80 may conduct an investigation of a complaint.

Complaints dealt with by relevant Council

109.— (1) If a relevant Council considers that a complaint is sufficiently serious to warrant an investigation, it shall, subject to subsection (2), give notice of the complaint to the health practitioner who is the subject of the complaint.

(2) A notice pursuant to subsection (1) shall —

- (a) be accompanied by a copy of the complaint or shall set the particulars of the complaint;
- (b) be served personally or sent by post;
- (c) require the complainant to appear before the relevant Council to give an explanation of the complaint;
- (d) state that the health practitioner is entitled to make submissions when appearing before the relevant Council;
- (e) state that the health practitioner may be assisted by another person including an attorney-at-law for advisory purposes only when appearing before the relevant Council;
- (f) state that the appearance before the relevant Council is not open to the public; and
- (g) specify the date, time and place at which the health practitioner is required to appear.

(3) A notice pursuant to subsection (1) may contain any other information that the relevant Council considers necessary or expedient.

(4) The date specified pursuant to subsection (2) (g) shall not be less than fourteen days after the date on which the notice is served or delivered.

(5) The relevant Council shall notify the complainant as it thinks fit of any action taken under this section.

(6) At a meeting of the relevant Council convened for the purposes of this section, the health practitioner —

- (a) is entitled to make submissions when appearing before the relevant Council; and
- (b) may be assisted by another person including an attorney at law for advisory purposes only, when appearing before the Council.

(7) A meeting convened for the purposes of this section is not open to the public.

(8) The relevant Council shall not take any further action in respect of a complaint unless, after considering the explanation of the health practitioner, it is satisfied that the health practitioner has a case to answer.

(9) If the relevant Council is satisfied, after investigation and considering the explanation and any submissions made pursuant to subsection (6), that the health practitioner has a case to answer, the relevant council may take one or more of the following actions as it considers appropriate having regard to the subject of the inquiry and its findings —

- (a) cancel or suspend the registration of the health practitioner;
- (b) subject to sections 111 and 112, suspend or revoke the practising certificate or the licence of the health practitioner;
- (c) impose a fine on the health practitioner not exceeding fifteen thousand dollars;
- (d) impose on the health practitioner a condition subject to which he or she may continue to practice;
- (e) require the health practitioner to take or refrain from taking a specified action;
- (f) caution or reprimand the health practitioner; or
- (g) dismiss the complaint.

(10) If the complaint relates to a matter referred to in paragraph (a) or (b) of section 105(1), the relevant Council shall, unless it dismisses the complaint or clears the health practitioner, take at least the action specified in paragraphs (a) and (b) of subsection (9).

(11) If the relevant Council imposes a fine under subsection (9)(c), it shall specify a period within which the fine shall be paid.

(12) For the purposes of subsection (9)(f), but without limiting that provision, the Council may require that the health practitioner be subject to periodic supervision or inspection as may be determined by the relevant Council.

(13) The relevant Council as an alternative to taking action against a health practitioner under subsection (9) may accept an undertaking from the health practitioner to take or refrain from taking specified action, either generally or within a specified period of time.

(14) A fine imposed by the relevant Council on a health practitioner under subsection (9) is a debt payable by the health practitioner to the Council.

Notice of decision

110.— (1) Where the relevant Council decides to take an action under section 109, it shall give notice of the decision and the reasons for the decision to —

- (a) the health practitioner;
- (b) the complainant; and
- (c) the Commission if the complaint was referred to it pursuant to section 106(3).

(2) A notice to the health practitioner or the complainant shall—

- (a) inform the health practitioner or the complainant as the case may be of his or her right of appeal; and
- (b) be served personally or by post.

(3) A decision of the relevant Council takes effect on the day on which the decision is made or on any later day that is specified by the relevant Council.

(4) The relevant Council shall give notice of its decision and any action taken by the relevant Council to any person that the relevant Council considers appropriate.

(5) The relevant Council shall publish a notice of the decision in the *Gazette*.

DIVISION 2

Suspension or Revocation of Practising Certificate or Licence

Suspension or revocation of practising certificate or licence

111.— (1) The relevant Council may suspend the practising certificate or the licence of a health practitioner for a period that the relevant

Council in the circumstances considers appropriate or revoke the practising certificate or the licence of the health practitioner if —

- (a) the health practitioner contravenes a condition subject to which he or she is registered;
- (b) the health practitioner fails to pay within the time specified, a fine imposed under section 109;
- (c) the health practitioner fails to honour an undertaking given by the relevant Council;
- (d) the health practitioner contravenes a code of ethics relevant to his or her category of health care;
- (e) the relevant Council reasonably considers that suspension is necessary for the purposes of inquiring into a complaint made against the health practitioner or inquiring into a matter that could be the subject of a complaint against the health practitioner; or
- (f) the relevant Council considers that it is in the public interest to suspend or revoke the practising certificate or the licence of the health practitioner.

(2) If the relevant Council decides to suspend or revoke the practising certificate or the licence of a health practitioner, it shall except in the case of subsection (1)(c), where only notice of such suspension under paragraph (c) is required —

- (a) give the health practitioner an opportunity to be heard; and
- (b) make an appropriate note of the suspension or revocation and the reasons for the suspension or revocation in the register kept by the relevant Council; and
- (c) give the health practitioner notice in writing of-
 - (i) the suspension or revocation and the reasons for the suspension; and
 - (ii) his or her right of appeal.

(3) A notice pursuant to subsection (2)(c) shall be served personally on or sent by post to the health practitioner.

(4) A health practitioner whose practising certificate or licence is suspended or revoked by the relevant Council shall —

- (a) in the case of a suspension, cease to be entitled to practise for the period specified by the relevant Council or until the suspension is revoked under section 112 or Part VI; or
- (b) in the case of a revocation, cease to be entitled to practise.

(5) A health practitioner whose practising certificate or licence is suspended or revoked pursuant to subsection (1) shall, if directed in writing to do so by the relevant Council, return the practising certificate or the licence to the relevant Council —

- (a) within seven days after receiving the direction; or
- (b) within any longer period that the relevant Council allows and specifies in the direction.

Revocation of suspension

112. If the relevant Council suspends a practising certificate or a licence of a health practitioner pursuant to section 111, it may, at any time and for reasons it considers sufficient, revoke the suspension wholly or in part and the relevant Council may seek the advice of the Commission before revoking the suspension.

PART VI **APPEALS**

Establishment of Appeals Board

113.— (1) There is hereby established an Appeals Board for the purpose of hearing appeals against a decision of a relevant Council.

(2) The constitution and procedure of the Appeals Board shall be prescribed in the Regulations made pursuant to section 124.

(3) A health practitioner may appeal to the Appeals Board on any of the following grounds —

- (a) the refusal of the relevant Council to register the health practitioner;
- (b) the refusal of the relevant Council to renew a practising certificate or a licence;
- (c) a condition to which the health practitioner's registration is made subject to the provisions of the Act;

- (d) the removal of the name of the health practitioner from a register other than a removal under section 101 (3) (b);
- (e) the suspension or revocation of a person's practising certificate or licence;
- (f) the refusal of the relevant Council to issue a renewal of a practising certificate or a licence to the health practitioner;
or
- (g) a decision of the relevant Council pursuant to section 109.

Hearing of appeals

114. At the hearing of an appeal, the Appeals Board may —

- (a) confirm the decision of the relevant Council;
- (b) set aside the decision of the relevant Council; or
- (c) set aside the decision of the relevant Council and substitute any other decision that the relevant Council has jurisdiction to take as the Appeals Board specifies.

PART VII
OFFENCES

Offences of false statements and forgery

115.— (1) A person shall not make or produce a false or misleading statement, either orally or in writing, in connection with —

- (a) an application or inquiry;
- (b) an investigation into a complaint.

(2) A person shall not forge a degree, or diploma or other evidence of qualifications for registration pursuant to the provisions of this Act.

- (3) A person shall not forge or change any information on a —
 - (a) certificate of registration;
 - (b) a practising certificate; or
 - (c) a licence.

(4) A person who contravenes subsections (1), (2), or (3) commits an offence and on summary conviction is liable to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years.

Obstruction

116.— (1) A person shall not obstruct, hinder, threaten or intimidate a person exercising a power or performing a function conferred on the person by this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand or to a term of imprisonment not exceeding three years or to both.

Prescribing of drugs

117.— (1) A person shall not prescribe any drug in relation to a medical condition or complaint unless he or she is registered as a health practitioner pursuant to the provisions of this Act and is authorized by virtue of the Regulations made pursuant to section 124.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or to a term of imprisonment not exceeding three years or to both.

Penalties where not specifically provided

118. A person who commits an offence under this Act for which no specific penalty is provided is liable on summary conviction to a fine not exceeding ten thousand or to a term of imprisonment not exceeding two years or to both.

PART VIII
MISCELLANEOUS

Employment jointly by Councils

119. Nothing in this Act prevents the same person from being employed jointly by the relevant Councils as staff or Executive Director to the Councils.

Oath of confidentiality

120. A member of a Council or of a committee established pursuant to section 28 or 80 shall, before assuming office, take the prescribed oath of secrecy.

Confidentiality of information

121. A member of a Council or a committee established pursuant to section 28 or 80 shall not except in the course of, and for the purpose of performance of his or her duties, disclose to any other person anything that comes to his or her knowledge related to a matter which is to be, is being or had been determined by the Council or the committee.

Keeping of records

122.— (1) A health practitioner shall maintain accurate records of each patient he or she treats and such records shall include the following —

- (a) the name of the patient;
- (b) the medical history of the patient; and
- (c) any treatment rendered; and
- (d) any other matter which may be prescribed.

(2) The records under subsection (1) shall be maintained for a period of seven years after the last date of entry and thereafter the records can be archived and stored in the prescribed manner.

Repeal

123. The Medical Registration Ordinance, Cap.11.06 and the Registration of Medical Practitioners Act, Cap. 11.07 are repealed.

Regulations

124.— (1) The Minister may make Regulations for carrying out the purposes of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make Regulations with respect to all or any of the following matters—

- (a) prescribing forms as may be required under this Act;

- (b) prescribing fees as may be required under this Act;
- (c) regulating the condition of the practice of medicine, dentistry and any allied health profession in Saint Lucia;
- (d) regulating the condition of practice of medicine, dentistry or any allied health profession listed in the Schedule;
- (e) to prescribe the constitution and procedure of the Appeals Board established under section 113;
- (f) any other matter that is required to be or may be prescribed;
or
- (g) regarding the scope of practice of allied health professionals.

SCHEDULE

(Sections 2,5,7, 59 and 61)

ALLIED HEALTH PROFESSIONS

Acupuncturist
Audiologist
Chiropodist
Chiropractor
Dental Hygienist
Dental Technician
Dental Therapist
Dietitian
Emergency Medical Technician
Emergency Medical Dispatcher
Herbalist
Homeopath
Imaging Technologist
Masseuse
Medical Technologist
Naturopathist
Optician
Optometrist
Occupational Therapist
Podiatrist
Psychotherapist
Physiotherapist
Psychologist
Reflexologist

Passed in the House of Assembly this 7th day of October, 2006.

J. BADEN ALLAIN,
Speaker of the House of Assembly.

Passed in the Senate this 9th day of November, 2006.

HILFORD DETERVILLE,
President of the Senate.