

REPUBLIC OF KIRIBATI
(No. 14 of 1996)

I assent

Beretitenti
Assented: 4th July 1996

**AN ACT TO SET UP A KIRIBATI MEDICAL COUNCIL AND A NURSING COUNCIL
AS CONTROLLING AUTHORITIES FOR THE REGISTRATION AND DISCIPLINE OF
MEDICAL PRACTITIONERS, DENTISTS, NURSES AND MEMBERS OF
PARAMEDICAL SERVICES; AND FOR CONNECTED PURPOSES.**

Commencement:
1996

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti.

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Medical Services Act 1996.

Interpretation

2. In this Act, unless the context otherwise requires –

“the association” means the Kiribati Medical and Dental Association recognised by the Minister as representing the interests of doctors and dentists in Kiribati;

“the controlling authority” –

- (a) in relation to medical practitioners, dentists and members of para-medical services – means the Medical Council; and
- (b) in relation to nurses – means the Nursing Council;

“the Medical Council” means the Kiribati Medical Council established by section 3;

“the Nursing Council” means the Kiribati Nursing Council established by section 3;

“para-medical services” means one of the services set out in section 24;

“register” means a register maintained under section 5;

“registered person” means a person registered, provisionally registered or enrolled under this Act;

“the Registrar” means the Registrar of Medical Services;

“working hours” means Working hours as approved and authorised by the Government for the civil service of Kiribati to observe.

PART II

ADMINISTRATION

Controlling authorities

3. (1) A Kiribati Medical Council and a Kiribati Nursing Council are hereby established.

(2) The constitutions, powers, functions and responsibilities of the Kiribati Medical Council and the Kiribati Nursing Council are as prescribed.

Registrar

4. There shall be a Registrar who shall be appointed by the Minister acting in accordance with the advice of the Medical Council and the Nursing Council.

Registers

5. For the purposes of this Act, individual registers shall be maintained by the Registrar in the prescribed form in relation to all the categories of registered persons.

Publication of details of certain registrations, etc

6. (1) The Registrar shall cause to be published –

- (a) next following the date of registration – notice of the name, address and qualifications of each medical practitioner or dentist registered under this Act; and
- (b) during the month of January in each year – a list containing the names of all medical practitioners and dentists remaining on the register on the preceding 31 December, together with their addresses and qualifications.

(2) The Registrar shall –

- (a) keep the registers correctly in accordance with this Act; and
- (b) erase from them the names of all persons who have failed to pay the prescribed fee for registration or renewal of registration, or who have died or left Kiribati with no intention of returning to practice in Kiribati; and

- (c) make any necessary alterations in the names, addresses or qualifications of registered persons as shown in them.

(3) On receipt of notice of the death of any person who is to his knowledge a registered person, the Registrar-General shall immediately transmit to the Registrar a certificate of the death with the particulars of time and place of death, and on receipt of the certificate the Registrar shall erase the name of the deceased person from the relevant register.

(4) In this subsection (3), the Registrar-General means the Registrar General appointed under section 3 of the Births, Deaths and Marriages Registration Ordinance (Cap. 5).

Evidence of registration

7. (1) The publication of a notice or list under section 6 is prima fade evidence that any person named in the notice or list is a registered person, and the absence of the name of any person from any such list is prima fade evidence that the person is not registered or enrolled under this Act.

(2) The registers, all copies of the registers or extracts from the registers certified under the hand of the Registrar are receivable in evidence in all courts.

Restoration of name, etc.

8. Where the name of a person is erased from a register under section 6(2)(b) on the ground that he has left Kiribati with no intention of returning to practise in Kiribati, the controlling authority, on satisfactory proof of his former registration and that he is not otherwise liable to have his name removed from the register, may cause his name to be restored to the register.

Correction of registers

9. With the approval of the controlling authority, the Registrar may correct any errors in a register that are not provided for in the preceding provisions of this Part.

Notification of change of name or address

10. A registered person who changes his name, whether by reason of marriage or otherwise, or his address, must promptly notify the Registrar of the change.

Inspection of registers

11. A register shall be open to inspection by the public at all reasonable times.

PART III

THE KIRIBATI MEDICAL COUNCIL AND ITS CONSTITUTION

Membership of the Medical Council

12. (1) Subject to section 4, the Medical Council shall consist of –

- (a) the Director-General of Health;
- (b) the Attorney General or any other suitable legal officer from the Office of Attorney General appointed by him;
- (c) Director of Public Health;
- (d) Director of Hospital Services;
- (e) one medical practitioner nominated by the Association and appointed by the Minister; and
- (f) one senior dental practitioner appointed by the Minister.

(2) The Director-General of Health is the Chairman of the Medical Council, and the members of the Medical Council shall elect another member to be the Deputy Chairman.

(3) In the absence or inability to act of the Chairman, the Deputy Chairman has and shall perform all the powers and functions of the Chairman.

(4) The Secretary to the Medical Council shall be appointed by the Medical Council and shall keep and maintain proper minutes and records of the meetings of the Medical Council.

Meetings and allowances of members of the Medical Council

13. (1) The Medical Council shall meet at such times and places as are fixed by the Chairman and notified to members.

(2) Subject to subsection (3), members of the Medical Council may be paid, such travelling and other expenses as may be incurred by them in respect of their duties as Councillors, and, excepting those members who are public officers, an attendance allowance at such rate as may be prescribed.

(3) A member of the Medical Council who is a public officer may be paid an attendance allowance referred to in subsection (2) if the Medical Council meets –

- (a) on a public holiday;
- (b) outside working hours, or
- (c) on Saturday or Sunday.

Procedure at meetings of the Medical Council

14. At a meeting of the Kiribati Medical Council –

- (a) four members, of whom one is the Chairman or the Deputy Chairman, are quorum; and

- (b) the Chairman, or in his absence the Deputy Chairman, shall preside; and
- (c) all matters shall be decided by the majority of votes of the members present; and
- (d) the member presiding has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

Registration of medical practitioners

15. (1) Subject to sections 16, 17 and 18, a person may apply to the Medical Council for –

- (a) registration; or
- (b) provisional registration,

as a medical practitioner.

(2) An application under subsection (1) shall –

- (a) be in the prescribed form; and
- (b) include such particulars as are required by the Medical Council; and
- (c) be accompanied by the diploma, licence, certificate or other document certifying to the qualifications on the basis of which the application is made, together with such other evidence or information as the Kiribati Medical Council requires.

(3) On being satisfied, by personal interview or otherwise, that the applicant –

- (a) is of good character and is otherwise a fit and proper person to be registered or provisionally registered, as the case may be; and
- (b) possesses the prescribed minimum qualifications for registration or provisional registration, as the case may be,

the Medical Council may register or provisionally register the applicant.

(4) On the registration or provisional registration of a person under subsection (3), the Medical Council shall issue to him a certificate of registration or of provisional registration, as the case requires, in the prescribed form.

Qualifications for registration

16. The minimum qualifications for registration as a medical practitioner are –

- (a) that the applicant –

- (i) has successfully completed a university course in medical and surgical study at a university or institution approved by the Medical Council for the purpose of this paragraph; and
 - (ii) has completed one years training as an intern or resident at a hospital; and
 - (iii) is, or is entitled to be, registered as a legally qualified medical practitioner in the country to which that university or institution belongs, as the case may be; or
- (b) that the applicant –
- (i) is provisionally registered under section 15(3); and
 - (ii) has completed one years training as an intern or resident at a hospital; or
- (c) that the applicant –
- (i) is provisionally registered under section 15(3) and has been so registered for a period of not less than two years immediately preceding the date of the application, or such longer period as the Medical Council in any particular case requires, with continuous medical experience, to the satisfaction of the Medical Council, during that period; and
 - (ii) has been employed full-time, during that period, in a hospital or institution, or in hospitals or institutions, approved by the Medical Council for the purpose; and
 - (iii) has in the course of that employment been engaged, for such periods and to such extent as the Medical Council thinks satisfactory, in the practice of medicine, surgery and midwifery or other branch or aspect of medicine.

Qualifications for provisional registration

17. The minimum qualifications for provisional registration as a medical practitioner are that the Applicant –

- (a) has successfully completed a university course in medical and surgical study referred to in section 16(a); or
- (b) has successfully completed a course approved by the Medical Council for the purposes of this paragraph, of not less than five years' duration, concerning all the accepted aspects of medical and surgical study.

Restrictions on persons provisionally registered

18. (1) A person who is provisionally registered as a medical practitioner is not entitled to charge or accept any fee for his services as such.

(2) Subsection (1) does not apply to or in relation to the acceptance of a salary in relation to any period of training referred to in Section (16)(c).

Specialists and consultants

19. (1) The Medical Council may approve categories of medical practitioners as specialist or consultant categories, and the qualifications for registration in any such categories.

(2) On proof to its satisfaction as to the qualifications of the applicant for registration in a specialist or consultant category, the Medical Council may register an applicant who is a medical practitioner as a specialist or consultant in the category.

Registration of dentist etc.

20. (1) Subject to sections 21, 22, and 23, a person may apply to the Medical Council for –

- (a) registration; or
- (b) provisional registration,

as a dentist.

(2) An application under subsection (1) shall –

- (a) be in the prescribed form; and
- (b) include such particulars as are required by the Medical Council; and
- (c) be accompanied by the diploma, licence, certificate or other document certifying to the qualifications on the basis of which the application is made, together with such other evidence or information as the Medical Council requires.

(3) On being satisfied, by personal interview or otherwise, that the applicant –

- (a) is of good character and is otherwise a fit and proper person to be registered or provisionally registered, as the case may be; and
- (b) possesses the prescribed minimum qualifications for registration or provisional registration, as the case may be,

the Medical Council may register or provisionally register the applicant.

(4) On the registration or provisional registration of a person under subsection (3), the Medical Council shall issue to him a certificate of registration or of provisional registration, as the case requires, in the prescribed form.

Qualifications for registration

21. The minimum qualifications for registration as a dentist are –

- (a) that the applicant possesses a certificate of qualification from an institution approved by the Medical Council for the purpose of this paragraph, and has had one year's dental experience since graduation from that institution; or
- (b) that the applicant –
 - (i) is provisionally registered under section 20(3); and
 - (ii) has had one year's dental experience since graduation; or
- (c) that the applicant –
 - (i) is provisionally registered under section 20(3) as a dentist and has been so registered for a period of not less than two years immediately preceding the date of the application, or such longer period as the Medical Council in any particular case requires, with continuous dental experience, to the satisfaction of the Medical Council, during that period; and
 - (ii) has, during that period, been engaged for such periods and to such extent as the Medical Council thinks satisfactory, in the practice of dentistry.

Qualification for provisional registration

22. The minimum qualifications for provisional registration as a dentist are that the applicant –
- (a) has successfully completed a university course in dental study at a university or institution approved by the Medical Council for the purposes of this paragraph; or
 - (b) has successfully completed a course in dentistry of not less than four years' duration approved by the Medical Council.

Restrictions on provisional registration

23. (1) A person who is provisionally registered as a dentist is not entitled to charge or accept any fee for his services as such.

(2) Subsection (1) does not apply to or in relation to the acceptance of a salary in relation to any dental experience referred to in section 21(b) or (c).

Para-medical services

24. The following are the para-medical services for the purposes of this Act –
- (a) pharmacists; and
 - (b) clinical psychologists; and
 - (c) physiotherapists; and

- (d) occupational therapists; and
- (e) medical technologists; and
- (f) radiographers; and
- (g) dental mechanics; and
- (h) dental therapists and dental assistants; and
- (i) environmental health officers; and
- (j) health inspectors; and
- (k) opticians; and
- (i) medical assistants.

Registration, etc.

25. (1) Subject to sections 26 – 40 inclusive, a person may apply to the Medical Council for –

- (a) registration; or
- (b) enrolment,

as a member of a para-medical services.

(2) An application under subsection (1) shall –

- (a) be in the prescribed form; and
- (b) include such particulars as are required by the Medical Council; and
- (c) be accompanied by the diploma, licence, certificate or other document (if any) certifying to the qualifications by reason of which the application is made, together with such other evidence or information as the Medical Council requires.

(3) On being satisfied, by personal interview or otherwise, that the applicant –

- (a) is of good character and is otherwise a fit and proper person to be registered or enrolled, as the case may be; and
- (b) possesses the prescribed minimum qualifications for registration or enrolment, as the case may be, the Medical Council may register or enrol the applicant.

(4) On the registration or enrolment of a person under subsection (3), the Medical Council shall issue to him a certificate of registration or of enrolment, as the case requires, in the prescribed form.

(5) For the purposes of the exercise of its powers and functions under this section, and in the case of the proposed registration or enrolment of a person in a category referred to in section 24(a),(b),(c),(d), or (e), the Medical Council shall consult with a registered person in the appropriate category.

Qualifications for enrolment

26. The minimum qualifications for enrolment as a member of a para-medical service are that the applicant has completed a course approved by the Medical Council for the purposes of this section in relation to that service, at an institution so approved.

Qualifications for registration

27. The minimum qualifications for registration as a member of a para-medical service are –

- (a) that the applicant possesses the minimum qualifications prescribed under the provisions of sections 25(3)(b) and 26 for registration as a member of that para-medical service concerned; or
- (b) subject to the succeeding provisions of sections 25 and 26, that the applicant –
 - (i) has been enrolled as a member of the para-medical service concerned and has had not less than three years experience, to the satisfaction of the Medical Council, as such a member; and
 - (ii) if so required by the Medical Council, has completed such additional studies and passed such examinations as are determined or approved by the Medical Council for the purpose.

Pharmacists

28. (1) For the purposes of this section, “recognized College of Pharmacy” means a college of pharmacy, graduates of which may be registered as pharmacists, druggists or chemists under the law of a country apart from Kiribati approved by the Medical Council for the purposes of this section.

(2) The minimum qualifications for registration under section 27(a) as a pharmacist are that the applicant possesses –

- (a) a certificate from any recognized College of Pharmacy or institution approved by the Medical Council for the purpose of this section; or
- (b) a pharmaceutical degree from a university; or
- (c) a certificate of qualification from any other body approved by the Medical Council for the purposes of this section.

Clinical psychologists

29. (1) The minimum qualifications for registration under section 27(a) as a clinical psychologist are that the applicant –

- (a) holds a university degree with a major in abnormal psychology or clinical psychology; and
- (b) has at least one years experience in a mental hospital.

(2) The provisions of section 26 dealing with enrolment do not apply to or in relation to clinical psychologists.

Physiotherapists

30. The minimum qualifications for registration under section 27(a) as a physiotherapist are that the applicant –

- (a) holds a diploma or certificate from a school of physiotherapy approved by the Medical Council for the purpose of this section; or
- (b) is a graduate of a university in physiotherapy.

Occupational therapists

31. The minimum qualifications for registration under section 27(a) as an occupational therapist are that the applicant –

- (a) holds a diploma or certificate from a school of occupational therapy approved by the Medical Council for the purpose of this section; or
- (b) is a graduate of a university in occupational therapy.

Medical technologists

32. The minimum qualifications for registration under section 27(a) as a medical technologists are that the applicant –

- (a) holds qualifications approved by the Medical Council entitling him to act as a medical technologist; and
- (b) has had appropriate service in a laboratory approved by the Medical Council for the purpose of this section; and
- (c) has, to the satisfaction of the Kiribati Medical Council, the required knowledge of laboratory procedures.

Radiographers

33. The minimum qualifications for registration under section 27(a) as a radiographer are the qualifications recognized by an Institute of Radiologists or other body approved by the Kiribati Medical Council for the purpose of this section.

Dental mechanics

34. (1) The minimum qualifications for registration under section 27(a) as a dental mechanic are recognition as a dental mechanic by a country apart from Kiribati or body approved by the Medical Council for the purpose of this section.

(2) A dental mechanic shall limit his practice in dentistry to mechanical assistance to dentists and such preventive practice as is approved by the Medical Council.

Dental therapists

35. (1) The minimum qualifications, for registration under section 27(a) as a dental therapist are the successful completion of a course for three years' duration as a dental therapist in a training school approved by the Medical Council for the purpose of this section.

(2) A dental therapist shall limit his practice in dentistry fields approved by the Medical Council for the purpose of this section.

Health inspectors

36. The minimum qualifications for registration under section 27(a) as a health inspector are that the applicant satisfies the Medical Council that he holds qualifications as a member of –

- (a) a recognised Society for the promotion of health; or
- (b) some other body approved by the Medical Council for the purpose of this section.

Opticians

37. (1) The minimum qualifications for registration under section 27(a) as an optician are qualifications recognized in a country approved by the Medical Council for the purpose of this section enabling the applicant to hold himself out and to act as an optometrist or an optician.

(2) The provisions of section 26 dealing with enrolment do not apply to or in relations to opticians.

Medical assistants

38. (1) The minimum qualifications for registration under section 27(a) as a medical assistant are evidence, to the satisfaction of the Medical Council, that the applicant –

- (a) has completed a three years' course at a school for medical assistants, approved by the Medical Council for the purpose of this section; or

- (b) is a registered nurse under this Act and has undertaken a formal course of training as a medical assistant to the satisfaction of the Medical Council.

(2) The provisions of section 26 dealing with enrolment do not apply to or in relation to medical assistants.

Environmental health officers

39. The minimum qualifications for registration under section 27(a) as an environmental health officer are that the applicant satisfies the Medical Council that he has undertaken a formal course of training at a training school recognised by the Medical Council for the purposes of this section.

Restriction on charging fees

40. (1) A medical assistant, occupational therapist, medical technologist, radiographer, dental therapist, environmental health inspector and health inspector is not entitled to charge or accept any fee for his service as such.

(2) Subsection (1) does not apply to or in relation to the acceptance of a salary in relation to any employment entered into by a person referred to in that subsection.

Grant of temporary registration

41. (1) In this section, “teaching or research institution” means any university, college or school of medicine, surgery or dentistry, research institute, hospital, clinic or other such institution that –

- (a) is engaged in teaching or research in medicine, surgery or dentistry in Kiribati; and
- (b) is approved by the Medical Council for the purposes of this section.

(2) On written application made by the Secretary to the Ministry of Health and Family Planning or the governing body of a teaching or research institution on behalf of a person –

- (a) who –
 - (i) holds a degree in medicine, surgery or dentistry of a university or medical, surgical or dental school in a country other than Kiribati; or
 - (ii) is qualified by law to practise medicine, surgery or dentistry in a country other than Kiribati; and
- (b) who is in Kiribati or proposes to come to Kiribati in some capacity connected with –
 - (i) specialist medical, surgical or dental care or disease prevention; or
 - (ii) teaching or research in medicine, surgery or dentistry,

the Kiribati Medical Council may issue in respect of the person concerned a certificate of temporary registration as a medical practitioner or dentist, as the case requires, for the purposes of this Act.

(3) A certificate under subsection (2) may be issued subject to such limitations and restrictions on the practice of medicine, surgery or dentistry by the person concerned and to such other conditions as the Medical Council in any particular case specifies in the certificate.

(4) A certificate under subsection (2) shall in the first instance be issued for a period of not more than two years, but on written application by the governing body of a teaching or research institution during the currency of the certificate the Medical Council may, subject to subsection (5), renew the certificate for a further period or for further periods of not more than one year in respect of each such application.

(5) The maximum period for which a certificate under subsection (2) may be in force under this section in respect of any person shall not in the aggregate exceed three years.

(6) The Medical Council may at any time cancel a certificate issued under subsection(2).

(7) The Registrar shall keep a record (to be called the “Record of Temporary Medical Registrations”) and shall cause to be entered in the record all the material particulars with respect to the issue, renewal and cancellation of certificates under subsection (2).

(8) For the purposes of this Act and any other law, a person in respect of whom a certificate of temporary registration as a medical practitioner or dentist is issued under subsection (2) shall be deemed, while the certificate remains in force and so long as he does not infringe the restrictions or limitations or contravene the conditions specified in the certificate, to be a legally qualified medical practitioner or dentist, as the case may be.

(9) A certificate purporting to be signed by the Chairman or any two members of the Medical Council to the effect that a certificate of temporary registration as a medical practitioner or dentist is or is not, or was or was not, at any specified date or during any specified period, in force in respect of any person is in all courts and before all persons acting in any judicial or official capacity prima facie evidence of the fact stated in the certificate.

Prescriptions

42. (1) Each written prescription of a medical practitioner or dentist must be dated and bear the address and usual signature (including the surname) of the practitioner or dentist.

(2) A medical practitioner or dentist who contravenes or does not comply with the provisions of subsection (1) commits an offence and is liable on conviction to a fine of \$40.

PART IV

THE NURSING COUNCIL AND ITS CONSTITUTION ETC.

Membership of the Council

43. (1) The Nursing Council shall consist of –

- (a) Chief Nursing Officer and 1 officer of the Ministry of Health and Family Planning who is registered or enrolled, or is eligible to be registered or enrolled, as a nurse under sections 47,48 and 49 and appointed by the Minister; and
- (b) Director-General of Health; and
- (c) a lawyer of the office of the Attorney General appointed by the Attorney General; and
- (d) a person apart from a medical or dental practitioner or a nurse appointed by the Minister; and
- (e) a nurse who is registered or enrolled or is entitled to be registered or enrolled, under sections 47,48 and 49 –
 - (i) nominated by an association of nurses recognized by the Minister as representing the interests of nurses in Kiribati; or
 - (ii) in the absence of such an association, elected by the nurses who are registered or enrolled or eligible to be registered or enrolled under sections 47,48 and 49,

who shall be appointed by the Minister by notice.

(2) The Minister shall, by notice appoint a member of the Nursing Council to be the Chairman of the Nursing Council, and the members of the Nursing Council shall elect another member to be the Deputy Chairman.

(3) In the absence or inability to act of the chairman, the Deputy Chairman has and shall perform all the powers and functions of the Chairman.

(4) The Secretary of the Nursing Council shall be appointed by the Nursing Council who shall keep proper minutes and records of the meetings of the Nursing Council.

Meetings and allowances of members of the Nursing Council

44. (1) The Nursing Council shall meet at such times and places as are fixed by the Chairman and notified to members.

(2) Subject to subsection (3), members of the Nursing Council may be paid, such travelling and other expenses as may be incurred by them in respect of their duties as Councillors, and,

excepting those members who are public officers, an attendance allowance at such rate as may be prescribed.

(3) A member of the Nursing Council who is a public officer may be paid an attendance allowance referred to in subsection (2) if the Nursing Council meets –

- (a) on a public holiday;
- (b) outside working hours, or
- (c) on Saturday or Sunday.

Procedure at meetings of the Nursing Council

45. At a meeting of the Nursing Council –

- (a) four members, of whom one is the Chairman or the Deputy Chairman, are a quorum; and
- (b) the Chairman, or in his absence the Deputy Chairman, shall preside; and
- (c) all matters shall be decided by a majority of votes of the members present; and
- (d) the member presiding has a deliberative, and in the event of an equality of votes on a matter, also a casting vote.

Prescribed nursing categories

46. The prescribed nursing categories for the purposes of sections 48 and 49 are –

- (a) registered nurses; and
- (b) enrolled nurses.

Registration, etc.

47. (1) Subject to section 48 and 49, a person may apply to the Nursing Council for –

- (a) registration; or
- (b) enrolment,

as a nurse.

(2) An application under subsection (1) shall –

- (a) be in the prescribed form; and
- (b) include such particulars as are required by the Nursing Council; and

- (c) be accompanied by the diploma, licence, certificate or other document certifying to the qualification on the basis of which the application is made, together with such other evidence or information as the Nursing Council requires.

(3) On being satisfied, by personal interview or otherwise, that the applicant –

- (a) is a good character and is otherwise a fit and proper person to be registered or enrolled, as the case may be; and
- (b) possesses the prescribed minimum qualifications for registration or enrolment, as the case may be, the Nursing Council may register or enrol the applicant.

(4) A person who was previously registered or enrolled as a nurse in Kiribati or in any other country recognized by the Nursing Council for the purpose, and who has not actively or directly engaged in the practice of nursing during the three years immediately preceding the making of an application for registration –

- (a) may be provisionally registered or enrolled, as the case may be, by the Nursing Council for a period not exceeding six months; and
- (b) may be required by the Nursing Council, before or after admission to provisional registration or enrolment –
 - (i) to undergo a course of nursing training approved by the Nursing Council; or
 - (ii) to obtain further experience generally or in relation to a specific aspect of nursing; and
- (c) after completion of the period of provisional admission or enrolment and successful completion of any required course of training or the obtaining of the further experience required under paragraph (b), may be registered or enrolled, as the case may be, as a nurse.

(5) On the registration or enrolment of a person under subsection (3) or (4), the Nursing Council shall issue to him a certificate of registration or of enrolment, as the case required, in the prescribed form.

Qualifications for registration

48. The minimum qualifications for registration under section 47(3) as a nurse are –

- (a) that the applicant –
 - (i) as successfully completed, at a recognized nurses' training school, a course of training approved by the Nursing Council as a training course for registration purposes; or
 - (ii) possesses such other qualifications as are prescribed by by-laws made

under section 63; or

- (b) that the applicant is enrolled under section 49, and has since enrolment obtained –
 - (i) post-graduate nursing qualifications; or
 - (ii) additional basic training and nursing experience, to the satisfaction of the Nursing Council.

Qualifications for enrolment

49. The minimum qualifications for enrolment under section 47(3) as a nurse are –

- (a) successful completion, at a recognized nurses' training school, or a course of training approved by the Nursing Council as a training course for enrolment purposes; or
- (b) such other qualifications as are prescribed by by-laws made under section 63.

Restrictions on enrolment

50. (1) A person who is enrolled as a nurse is not entitled to charge or accept any fee for his services as such.

(2) Subsection (1) does not apply to or in relation to the acceptance of a salary in relation to any experience referred to in section 48(b)(ii).

Enrolment of nurse aides

51. (1) A person may apply to the Nursing Council for enrolment as a nurse aide in a class prescribed by the Nursing Council.

(2) An applicant for enrolment as a nurse aide shall produce evidence to the satisfaction of the Medical Council –

- (a) that he has completed at a recognised nurse aides' training school a formal course of training approved by the Nursing Council as a training course for enrolment purposes; or
- (b) that he has had training or experience appropriate for enrolment as a nurse aide.

PART V

ADMINISTRATION AND DISCIPLINE

Disqualification from office

52. (1) A person is not entitled to be, or to continue to be, a member of a controlling authority if –

- (a) he is an undischarged bankrupt or insolvent; or
 - (b) he is under sentence of death imposed on him by a court in Kiribati or any other country, or is serving a sentence of imprisonment (by whatever name called) for a term of or exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;
 - (c) he is not, or ceases to be, a registered person; or
 - (d) he is not otherwise qualified to be a member of the controlling authority; or
 - (e) his registration is suspended under section 57(1)(g)
- (2) The office of a member of the controlling authority becomes vacant if the member –
- (a) ceases, under subsection (1) to be entitled to be, or to continue to be, a member of the controlling authority; or
 - (b) ceases to have the qualifications by virtue of which he was appointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) dies or becomes of unsound mind; or
 - (e) is absent without leave granted by the controlling authority from three consecutive meetings of the controlling authority of which meeting due notice has been given to him; or
 - (f) is removed from office under subsection (3).
- (3) The Minister, may by notice, remove from office –
- (a) any member appointed by him, for any reason; and
 - (b) any other member on the ground of physical or mental incapacity to carry out his function and duties under this Act, or for proven misbehaviour.

Tenure of office

53. (1) This section does not apply to or in relation to ex officio members of a controlling authority.

(2) Subject to this Act, the tenure of office of members of a controlling authority is three years.

(3) A member who is appointed in the place of a person who ceased to be a member under section 52 shall be appointed only for the balance of the term of office of that last-mentioned member.

Committees

54. (1) A controlling authority may appoint such committees as it thinks proper to assist it on such matters within the scope of its functions as it refers to them.

(2) A person may be appointed to be a member of any committee whether or not he is a member of the controlling authority, as long as he is qualified to be such a member.

(3) The procedure of a committee is as determined by the controlling authority or, in the absence of any such determination, by the committee.

Delegation

55. A controlling authority may delegate to a committee appointed by it under section 54 all or any of its powers and functions under this Act (except this power of delegation).

Interpretation of sections 57, 58 etc.

56. In sections 57, 58 and 59 , unless the context otherwise requires, “registration” includes provisional registration and enrolment.

Disciplinary action, etc.

57. (1) Where a registered person –

- (a) has been convicted in Kiribati or elsewhere of an offence, that if committed in Kiribati would be liable to imprisonment for a term of 12 months or more; or
- (b) subject to subsection (2), has had his qualifications for registration or any part of those qualifications withdrawn or cancelled by the institution or body at which it was acquired, or by the institution or body by which it was awarded; or
- (c) is of unsound mind; or
- (d) has obtained registration by fraud or mistake; or
- (e) has been found by the controlling authority to be guilty of –
 - (i) addiction to alcohol or other deleterious drug; or
 - (ii) such professional misconduct as, in the opinion of the controlling authority, renders him unfit to be allowed to continue to practise,

the controlling authority may –

- (f) order his name to be removed from the register; or
- (g) order that his registration be suspended for such time as it specifies; or

- (h) that his registration shall be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such requirements so specified as the controlling authority think fit to impose for the protection of members of the public or in his interests; or
- (i) reprimand him.

(2) Subsection (1)(b) does not apply unless the reason for the withdrawal or cancellation of the qualification for registration was an act or omission of such a nature that, if it were a thing done or omitted to be done in Kiribati by a registered person, the controlling authority would be entitled to remove the name of that person from the register.

(3) Whilst it continues in force, the suspension of registration of any person has the same effect as a removal of the name of the suspended person from the register under this section.

(4) Before making an order under subsection (1), the controlling authority shall –

- (a) give to the registered person concerned, personally or by registered post, written notice of the complaint and of the date of the hearing of the complaint; and
- (b) hold full inquiry into the matter of the complaint and afford the registered person an opportunity of giving a defence in person or by a lawyer.

(5) An inquiry or hearing of a complaint under this section shall be only open to the public where the controlling authority so determines, or where the complainant or registered person concerned so requests.

(6) Subject to subsection (5), in holding an inquiry or hearing any complaint under this section the controlling authority has all the powers, authority, protection and jurisdiction of a Commission of Inquiry under the Commissions of Inquiry Act. (Cap. 10).

(7) Where the registration of a person is suspended under this section, the Registrar shall enter in the register a memorandum of that fact and the cause of the suspension.

(8) An order of the controlling authority under subsection (1)(f) or (g) may, at any time and for such reason as the controlling authority thinks proper, be annulled by order of the controlling authority.

Notification of refusal of registration, or disciplinary action

58. Where the controlling authority refuses the registration of a person or makes an order under section 57 in relation to a person, it shall notify him of the refusal or order by registered post addressed to him at his address appearing on the register, or his last-known address.

Appeals

59. (1) A person aggrieved by –

- (a) a refusal of the controlling authority to register him; or

(b) an order of the controlling authority under section 57,

may appeal to the High Court.

(2) An appeal under this section must be brought within 30 days after the notification by the Registrar to the person of the refusal or order, but the High Court may extend the time in which an appeal may be brought if it is shown that the failure to bring an appeal was occasioned by mistake or other reasonable cause.

(3) An appeal under this section shall be instituted by filing in the Registry of the High Court a notice of appeal

(4) An appeal under this section shall be by way of rehearing.

PART VI

TRAINING SCHOOLS

Recognition of training schools

60. (1) Subject to this Part, the controlling authority may recognize training schools in respect of any category of nurses or para-medical health services.

(2) Recognition under subsection (1) may be made subject to compliance with such conditions as are determined by the controlling authority, and in that case is of no effect pending compliance.

(3) In recognizing a training school, the controlling authority shall specify whether a graduate of the school may be eligible for registration or for enrolment and in what category under this Act.

(4) The controlling authority shall cause to be published by notice, in relation to any training school recognized under this section, the name, location, type of training and number of students.

(5) The controlling authority shall issue to a recognized training school a certificate of recognition in the prescribed form in relation to any course of training approved by the controlling authority.

Restriction on recognition

61. (1) No training school in respect of any category of training shall be recognized under section 60 unless the facilities of the school for teaching and training conform to the minimum standards determined by the controlling authority.

(2) In assessing the standard of any school, the controlling authority shall specify the minimum duration of any course and of the course as a whole, and the number of students that may be taken into any year of the course.

Examination of graduates

62. The controlling authority may examine, as a group or otherwise, in any manner that it thinks proper, any students graduating from the final examination of any course at a recognized training school.

By-laws

63. On the recommendation of a controlling authority, the Minister may make by-laws, not inconsistent with this Act, prescribing details in relation to any course that may be recognized by a controlling authority, and particularly in relation to the achievement and maintenance of adequate professional standards and prescribing the minimum qualifications for enrolment or registration as a nurse, or enrolment as a nurse aide.

Certificates of graduation, etc.

64. The governing body of each recognized training school shall issue a certificate in the prescribed form to any person who has satisfactorily completed at the school the prescribed period of training, or any part of that period.

Visitors

65. A training school seeking recognition under this Part, and any recognized or conditionally recognized training school, is subject to inspection at all reasonable times, as to its training facilities, by any visitor appointed by the controlling authority for the purpose.

PART VII

PRIVATE HOSPITALS

Application of Part VII

66. This Part does not apply to a hospital established by the Republic.

Licensing of private hospitals

67. (1) A person may apply to the Medical Council for permission to conduct a hospital.

(2) After due inquiry into the qualifications of the applicant and the suitability of the premises in the possession or under the control of the applicant, the Medical Council may grant a licence in the prescribed form to conduct a hospital.

(3) The Medical Council shall ensure that the premises in the possession or under the control of the applicant are suitable for use as a hospital, and that the applicant is a fit and proper person to conduct a hospital.

(4) A licence under this section is not transferable.

Unlicensed private hospitals

68. Subject to section 67, a person, other than a person to whom a licence under section 67 has been granted and is in force, who conducts a hospital commits an offence and shall be liable on conviction to a fine of \$20,000 or imprisonment for a term of 10 years.

PART VIII

MISCELLANEOUS

Inspection of enrolled persons, etc.

69. A person provisionally registered or enrolled under this Act is subject to examination at all reasonable times in relation to his health activities within any institution, hospital, clinic, dispensary or place at which he is employed or working, by any visitor appointed by the controlling authority for the purpose.

Fees

70. (1) Subject to sections 40 and 50 and subsection (2) a person registered under Parts III and IV may charge such fees as may be prescribed by the controlling authority in respect of any services that may be performed or provided by such registered person.

(2) Subsection (1) shall not apply to a person who is provisionally registered or enrolled under Parts III and IV.

Waiver of fees

71. Where for any special reason it thinks fit, a controlling authority may waive, reduce or defer any fees liable to be charged or made under this Act.

Unregistered persons using professional titles, etc.

72. (1) A person other than a person duly registered under section 15 or temporarily registered as a medical practitioner under section 41 must not –

- (a) pretend to be, or take or use the name or title of, or hold himself out to be, a doctor, medical practitioner, general or specialist practitioner, physician or surgeon; or
- (b) use any medical or surgical name or title indicating that he is registered under those provisions: or
- (c) otherwise represent that he is registered under those provisions.

(2) A person other than a person duly registered or provisionally registered under section 20 or temporarily registered as a dentist under section 41 must not –

- (a) pretend to be, or take or use the name or title of, or hold himself out to be, a dentist, dental surgeon, or a surgeon, orthodontist or licentiate in dentistry; or

- (b) use any dental name or title indicating that he is registered under those provisions; or
- (c) otherwise represent that he is registered under those provisions.

(3) A person other than a person duly registered or enrolled under section 25 in respect of the service must not –

- (a) pretend to be, or take or use or describe himself by the name or title or a derivative of the name or title of, a para-medical service; or
- (b) use any name or title indicating that he is registered or enrolled in respect of a para-medical service; or
- (c) otherwise represent that he is registered or enrolled under section 25 in respect of a para-medical health service.

(4) A person other than a person duly registered or enrolled under sections 47 and 51 must not –

- (a) pretend to be, or take or use the name or title of, or hold himself out to be, a nurse, general nurse, psychiatric nurse, maternal nurse, child health nurse, registered nurse, certificated nurse or licentiate in nursing; or
- (b) use any nursing name or title indicating that he is registered or enrolled under those sections; or
- (c) otherwise represent that he is registered or enrolled under those sections,

but a person registered or enrolled under section 35 as a dental therapist does not contravene this subsection by reason only of taking or using the name or title of, or holding himself out to be, a dental therapist.

(5) Notwithstanding subsection (1), a person who is –

- (a) the holder of a doctoral degree conferred by a university or institute of higher education, whether or not it is related to the field of medicine or surgery; or
- (b) duly registered or provisionally registered under sections 15 or 20, or temporarily registered under section 41; or
- (c) duly registered under any *Veterinary Surgeons Act* as a registered veterinary surgeon; or
- (d) not a resident of Kiribati and is permitted to use such a name or title in any place outside Kiribati,

may use or continue to use the name or title “doctor”, but such person must not take or use that name or title, or hold himself out in a manner indicating that he is –

- (e) registered or provisionally registered under sections 15 or 20; or
- (f) temporarily registered as a medical practitioner under section 41, or
- (g) in any way entitled to practise in any medical category to which this Act applies.

(6) A person who contravenes any of the provisions of this section commits an offence and shall be liable on conviction to a fine of \$20,000 or imprisonment for a term of 20 years.

Professional references in other laws

73. A reference in any other law to a legally qualified medical practitioner or duly qualified medical practitioner, or to any expression importing a person recognized by law as –

- (a) a medical practitioner or member of the medical profession; or
- (b) a person falling within one of the classes of persons required to be registered under this Act,

shall be read as a reference to a person registered as such under this Act.

Regulations

74. The Minister, acting in accordance with the advice of Cabinet, after consultation with the Kiribati Medical Council may make regulations not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing annual or other fees for any act, matter or thing under this Act, and penalties or fines not exceeding \$400 and default penalties of fines not exceeding \$40 for offences against the regulations.

Repeals

75. The Medical and Dental Practitioners Ordinance (Cap. 55), Medical Assistants Ordinance (Cap. 51) and Nurses and Midwives Ordinance (Cap. 64) hereinafter referred to as “the repealed enactments” are hereby repealed.

Transitional and Savings

76. (1) A registration or entry or note in the register effected under the repealed enactments shall, if in force immediately at the commencement of this Act, not be affected by the repeal and shall have effect as if made under this Act.

(2) Nothing in this Act shall affect any order, regulation, rule, appointment, nomination, election, application, claim or charge made, authority, approval, certificate, direction or notice given, or any other thing (not falling within the last foregoing subsection) done, under the repealed enactments, but any such order, regulation, rule, appointment, nomination, election, application, claim, charge, authority, approval, certificate, direction, notice, or thing shall if and so far as it is in force at the commencement of this Act continue in force, and so far as it could

have been made, given or done under the corresponding provision of this Act, it shall have effect as if it had been made, given or done under that corresponding provision.

MEDICAL SERVICES ACT 1996

Explanatory Memorandum

1. The principal object of this Act is to enact one comprehensive Medical Services Act which governs and controls all medical services in Kiribati.
2. Presently there are three (3) different Acts which govern the operation of the entire medical profession and health services in Kiribati. They are the Medical and Dental Practitioners Ordinance (Cap. 55), Medical Assistants Ordinance (Cap. 51) and Nurses and Midwives Ordinance (Cap. 64). All these Ordinances are sought to be repealed (Section 75) and replaced by this Medical Services Act
3. The Act essentially seeks to set up a Medical Council (section 12) and a Nursing Council for Kiribati (section 43) both of which are controlling authorities for the registration and discipline of medical practitioners (section 15) dentists (section 20), nurses (sections 47 and 57) and members of para-medical services (section 25).
4. Part I – Preliminary (sections 1 and 2) provides for the short title and definition of terms and words which are to be used in interpreting the Act.
5. Part II (Administration) (sections 3 – 4). This Part deals with the general administration of the Act. It establishes the controlling authority (Medical Council and Nursing Council (section 3), the position of Registrar (section 4) and its responsibilities under the Act such as publication of details of the registration (section 6) restoration of name in the register and correction of the registers (section 9).
6. Part III (Kiribati Medical Council and its constitution – sections 12 – 42). This Part provides for the membership of the Kiribati Medical Council (section 12) its meetings and proceedings (section 13 – 14). This Part also provides for the registration of medical practitioners and dentists (section 15 etc and 20 etc) and members of the para-medical services (sections 24 and 25).
7. Part IV – (The Nursing Council and its constitution – sections 43 – 50). This Part provides for the membership of the Nursing Council, its meetings, registration of nurses, qualifications, etc.
8. Part V (Administration and Discipline – sections 52 – 59). This Part provides for the disqualification from office of members of controlling authority (section 52) tenure of office of members of the controlling authority, disciplinary action against a registered person who has been convicted of an offence, or obtained registration by fraud, and removal of name, etc., of such person from the register.

Further an appeal by an aggrieved person (refusal of controlling authority to register his name, etc.) to the High Court is provided by section 59.

9. Part VI deals with training schools which may be recognised by the controlling authority, the restriction on recognition of such schools, examination of graduates, by-laws to be

made by the Minister for such schools and certificates of graduation to be issued on completion of courses in these schools (sections 60 – 65).

10. Part VII – This Part deals with the granting of licences by the Kiribati Medical Council in respect of or in relation to the conduct of private hospitals etc. (sections 66 – 68).
11. Part VIII. This Part deals with miscellaneous matters such as inspection of provisionally registered or enrolled persons, the charging of fees by persons registered under the Act and the penalties for unregistered persons using professional titles when they are not entitled to use such titles (sections 69 – 72).
12. Further Part VIII deals with the making of regulations (section 74) repeals (section 75), transitional and savings (section 76).

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Attorney General
30 October 1995