

SAMOA

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2007, No. 6

AN ACT to provide for the establishment of a reformed Pharmacists Council, for the professional administration of the pharmacy profession in Samoa and for the determination and enforcement of professional standards and requirements applying to pharmacists and pharmacist assistants and pharmacist technicians and for related matters.

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

**PART I
PRELIMINARY**

1. Short title and commencement-(1) This Act may be cited as the Pharmacy Act 2007.

(2) This Act shall commence on a date nominated by the Minister.

(3) Notice of commencement of this Act shall be published in Samoan and English in the Savali and one other newspaper circulating in Samoa.

2. Interpretation-(1) In this Act, unless the context otherwise requires -

- “allied pharmacy professional” means any pharmacy related worker regulated under Part VII;
- “Chief Executive Officer” means the Chief Executive Officer of the Ministry of Health;
- “Chairperson” means the Chairperson of the Council, and includes any member of the Council appointed as a temporary chairperson;
- “Council” means the Pharmacists Council established under section 4;
- “ex officio member” means a member who holds office on the Council by reason of being the holder of the designated office, and who shall have full power to vote as a member of the Council;
- “Health Care Professions Registration and Standards Act” means the Healthcare Professions Registration and Standards Act 2007;
- “Minister” means the Minister responsible for the Ministry from time to time;
- “Ministry” means the Ministry of Health established pursuant to the Ministry of Health Act 2006;
- “National Health Service” means the National Health Service established under the National Health Service Act 2006;
- “Pharmacist” means a pharmacist qualified and registered in accordance with this Act and the Healthcare Professions Registration and Standards Act;
- “Pharmacy” means a place or business dispensing drugs, medicines and other pharmaceutical items and preparation;
- “Pharmacists Association” means the Samoa Pharmacists Association to be incorporated under the authority of section 8;
- “private practice” means the practice of pharmacy by pharmacists who are not employed by the Government to practice pharmacy on a full time basis;
- “professional standards” include standards of professional conduct, requirements and supervision arrangements;

“Register” means the Register of Pharmacists kept by the Registrar in accordance with the provisions of the Healthcare Professions Registration and Standards Act;

“Registered persons” means persons registered as pharmacists under this Act;

“Registrar” means the Registrar of Healthcare Professionals appointed under the Healthcare Professions Registration and Standards Act;

“Samoa” means the Independent State of Samoa;

“Secretary” means the Secretary of the Council.

(2) Where any office referred to in this Act later ceases to exist, the Chief Executive Officer may determine the appropriate office most approximating the office referred to, and that office shall be deemed to be substituted for the office ceasing to exist.

3. This Act binds the State - This Act binds the State, but nothing in this Act shall affect -

(a) any right of the Government, the Ministry or the National Health Service to charge any fees for drugs, medicines and other pharmaceutical items and preparations supplied from or in any Government hospital, clinic or health service, or any other Government Agency;

(b) any Government pharmacy or any other officer of the Government who dispenses drugs, medicines and other pharmaceutical items and preparations on the authority of the Chief Executive Officer or the National Health Service.

PART II THE PHARMACISTS COUNCIL

4. Pharmacists Council-(1) A Pharmacists Council is hereby established and shall assume the responsibilities of the Pharmaceutical Committee established under the Pharmacy Act 1976.

(2) The Pharmacists Council shall be a body corporate and may -

- (a) enter into contracts;
 - (b) hold property;
 - (c) maintain bank accounts; and
 - (d) sue and be sued in the name of the Council.
- (3) The members of the Pharmacists Council shall be -
- (a) the Chief Executive Officer, who shall be an ex-officio member;
 - (b) the General Manager of the National Health Service, who shall be an ex-officio member;
 - (c) three (3) pharmacists appointed by the Pharmacists Association (of whom one (1) shall be a pharmacist employed by the Ministry or the National Health Service);
 - (d) the Senior Pharmacist in the Ministry or National Health Service, designated as such by the Chief Executive Officer, who shall be an ex-officio member;
 - (e) a lawyer from the Office of Attorney General appointed by the Attorney General;
 - (f) a medical practitioner appointed by the Medical Council; and
 - (g) two (2) members of the community appointed by the Minister who have skills which in the opinion of the Minister, after consulting the Council, may assist the deliberations of the Council.
- (4) The members of Council shall appoint a member of the Council to be Chairperson, and may vote on one occasion each calendar year to change the appointment of the Chairperson:
- PROVIDED THAT** only a pharmacist on the Council may be appointed to be Chairperson of the Council; and
- PROVIDED THAT** in the absence or unavailability of the Chairperson, the Council may appoint another member of the Council who is a pharmacist to chair a meeting of the Council where the Chairperson is absent or unavailable.
- (5) The members of the Council shall hold office for a period of three years, and shall be eligible for re-appointment.
- (6) The Council may vote to remove a member of the Council on the grounds of -

- (a) inability to perform their functions and duties under this Act due to a physical or mental incapacity;
- (b) bankruptcy;
- (c) neglect of duty;
- (d) misconduct in office;
- (e) misconduct elsewhere affecting or likely to affect the operations or reputation of the Council;
- (f) failure to disclose and take all reasonable steps to avoid any real or apparent conflicts of interest in relation to their membership of the Council;
- (g) using information belonging to or under the control of the Council other than for the Council's functions;
- (h) failure to act with integrity as a member of the Council;
- (i) misuse of their status or authority as a member of the Council to seek or obtain a benefit for themselves or any other person or body;
- (j) departure from Samoa for a period exceeding 6 months unless the Council has approved the period of absence;
- (k) failure to attend three consecutive meetings of the Council without submitting an apology to the Council in relation to the member's absence;
- (l) professional misconduct or breach of the professional standards approved for pharmacists in accordance with this Act.

(7) The office of any member of the Council shall become vacant if the member -

- (a) is removed from office under subsection (6); or
- (b) dies; or
- (c) resigns from the Council by giving written notice to this effect to the Secretary -

and the office of the member may then be filled in the manner which originally applied to the appointment of the member.

(8) Each member of the Council shall be paid from the funds of the Ministry, such remuneration and allowances as are approved by Cabinet from time to time for members of Government Boards and Committees.

5. Secretary of the Council-(1) The Council shall appoint one of its members to be Secretary to the Council.

(2) The Secretary shall be responsible for liaising with the Registrar to ensure the effective implementation of the provisions of this Act and the Healthcare Professions Registration and Standards Act.

(3) The Secretary shall not give any written notice or direction to the Registrar relating to the registration or discipline of a pharmacist, or the determination of professional standards applying to pharmacists unless -

(a) the Secretary is authorised to do so by the Council; and

(b) the notice or direction is in accordance with the provisions of this Act and the Healthcare Professions Registration and Standards Act.

6. Meetings of the Council-(1) The Chairperson or the Registrar may request the Secretary to convene a meeting of the Council and shall ensure that the Council meets at least once every calendar year.

(2) The Secretary shall convene a meeting of the Council if requested in writing to do so by at least three (3) members of the Council.

(3) The Council may request assistance from the Registrar in relation to the convening of Council meetings, the recording of Council proceedings and the ability of the Council to access any necessary technical or legal advice.

(4) At any meeting of the Council at least half plus one of the members of Council shall constitute a quorum.

(5) At every meeting of the Council the Chairperson shall have a deliberative vote and, in the case of an equality of votes, the Chairperson shall also have a casting vote.

(6) Every question before a meeting of the Council shall be determined by a majority of votes of the members present at the meeting.

(7) Except as otherwise provided in this Act or in any regulations, the Council may regulate its procedures as it thinks fit.

- (8) Resolutions of the Council may be approved if -
- (a) a copy of all relevant papers together with a draft resolution are provided to all members of the Council by the Secretary; and
 - (b) at least half plus one of the members indicate their consent to the resolution in writing or by facsimile or email transmission.

7. Functions and Powers of the Council-(1) The functions of the Council are to -

- (a) administer the procedures applying to the registration and discipline of pharmacists as provided for by this Act and the Healthcare Professions Registration and Standards Act;
- (b) determine the qualifications and experience necessary for registration as a pharmacist;
- (c) determine any qualifications and experience necessary for a pharmacist to be in private practice or work for the National Health Service;
- (d) determine the requirements for continuing education to be undertaken by registered persons;
- (e) determine the professional standards applying to pharmacists and the practice of pharmacy in Samoa;
- (f) bring the professional standards to the attention of registered persons in any manner that the Council thinks fit;
- (g) assist the Registrar to effectively monitor and enforce the approved professional standards and notify the Registrar of suspected breaches for investigations to be undertaken;
- (h) advise the Ministry, the National Health Service and other Government agencies in relation to matters related to medicinal and therapeutic drugs and other matters relevant to the practice of pharmacy;
- (i) assist the Ministry and the National Health Service to develop, monitor and enforce policies relevant to drugs, therapeutic goods and the practice of

- pharmacy so as to protect the health of the community; and
- (j) develop and implement arrangements for the regulation of pharmacy assistants and pharmacy technicians and for the promotion of their work within the profession;
 - (k) determine certain professional rights of pharmacists relevant to the performance of their practice of pharmacy;
 - (l) assist in the resolution of disputes which may arise between or amongst pharmacists.
- (2) The Council may exercise any power -
- (a) prescribed by this Act, the Healthcare Professions Registration and Standards Act and any applicable law; and
 - (b) which is necessary or incidental to any function, duty or responsibility of the Council provided for in this Act, the Healthcare Professions Registration and Standards Act and any applicable law.

PART III THE PHARMACISTS ASSOCIATION

8. Incorporation requirements – Notwithstanding the requirements of sections 3 and 6 of the Incorporated Societies Ordinance 1952 and any other provision of that law to the contrary, the Samoa Pharmacists Association may be incorporated under that Act with a membership of less than 15 persons.

PART IV PROFESSIONAL STANDARDS

9. Professional standards to be determined by the Council-(1) The Council shall -

- (a) determine the professional standards to be observed by pharmacists;

- (b) determine any specific professional standards to apply to pharmacists in private practice or working for the National Health Service;
 - (c) determine matters relevant to the responsibilities of pharmacy assistants and pharmacy technicians, and the supervision of their work by pharmacists;
 - (d) ensure that the professional standards approved under this section –
 - (i) are consistent with the proper and effective administration and operation of hospitals and the provision of medical and pharmaceutical services to the public;
 - (ii) reflect matters of Government policy and administrative practice relating to the provision of medical and pharmaceutical services as advised from time to time by the Ministry; and
 - (iii) ensure that the medical and pharmaceutical services provided to all persons in Samoa meet accepted international standards and are consistent with the human rights applying to all persons in Samoa;
 - (e) review the approved professional standards, and make necessary amendments to them –
 - (i) at least once every calendar year; and
 - (ii) when a specific request to do so is made by the Chief Executive Officer;
 - (f) liaise with the Registrar when professional standards are being determined or changed to ensure that the requirements of paragraph (d) are met;
 - (g) notify the Registrar of the approved professional standards, or the changes to them; and
 - (h) take appropriate action to monitor and enforce the professional standards in accordance with the requirements of this Act.
- (3) The Council may adopt the professional standards applying to pharmacists in any other country as the professional standards to be observed by pharmacists in Samoa.

(4) The Council may establish a committee to deal with matters relevant to professional standards and may delegate to that committee any of its functions, powers and responsibilities concerning professional standards.

10. Professional standards applying to other healthcare professionals to be taken into account - In consultation with the Registrar, the Council shall ensure that the professional standards determined under section 9, and by other Councils relating to the work of healthcare professionals, take account of the role of other healthcare professionals affecting the work and duties of pharmacists, pharmacy assistants and pharmacy technicians.

PART V REGISTRATION OF PHARMACISTS

11. Qualifications for registration-(1) To be eligible for registration as a pharmacist, a person must -

- (a) hold a degree in pharmaceutical chemistry from an educational institution recognised by the Council as providing acceptable courses of instruction for the purpose of maintaining the standards applying to pharmacists in Samoa; or
- (b) hold a certificate or diploma as a pharmaceutical chemist granted in any country and which is recognised by the Council as being sufficient to ensure that the holder of the certificate or diploma is able to attain the professional standards applying to pharmacists in Samoa; and
- (c) have undertaken such practical experience in the practice of pharmacy as the Council may require; and
- (d) be at least 21 years of age; and
- (e) be of good character and reputation.

(2) It shall be the responsibility of the applicant to satisfy the Council of the requirements for registration stated in subsection (1), and the Council may defer any decision until the applicant provides sufficient details or verification of -

- (a) the course or courses undertaken by the applicant for the obtaining of the relevant degree, certificate or diploma and the academic record of the applicant;
 - (b) any required practical experience in the practice of pharmacy;
 - (c) any matter relevant to the applicant undertaking private practice or working for the National Health Service;
 - (d) any current registration to practice pharmacy in Samoa or elsewhere held by the applicant;
 - (e) any current eligibility for the practice of pharmacy held by the applicant, including compliance with any requirement to undertake continuing education;
 - (f) the identity, age, character and repute of the applicant; and
 - (g) any disciplinary action taken against the applicant as a pharmacist in Samoa or elsewhere.
- (3) Any person who was registered as a pharmacist under the Pharmacy Act 1976 immediately prior to the commencement of this Act shall be entitled to registration as a pharmacist under this Act.

12. Applications for registration-(1) Every application for registration as a pharmacist shall be –

- (a) made in writing to the Secretary in a form approved by the Council;
- (b) accompanied by the application fee;
- (c) accompanied by two recent references as to the applicant's good character, reputation and professional competence given by pharmacists of good standing (whether in Samoa or elsewhere); and
- (d) accompanied by evidence to the satisfaction of the Council of the matters referred to in section 11.

13. Council to consider applications-(1) In relation to each application for registration, the Secretary shall confirm that the requirements of section 12 have been complied with, and upon being so satisfied, the Secretary shall refer the matter to the Council as soon as is practicable.

(2) When considering any application for registration the Council may –

- (a) require the applicant to be interviewed by one (1) or more members of Council nominated by the Council;
- (b) require the applicant to appear before the Council to be examined on oath, which may be administered by the Chairperson;
- (c) give any direction to the Secretary to verify any matter relevant to the application or seek any further information relevant to it; and
- (d) require any person to verify by statutory declaration any aspect of the application.

14. Decisions of the Council-(1) In relation to any application for registration considered by Council, the Council may –

- (a) defer the consideration of the application until -
 - (i) the applicant has provided any further information or any verification required by Council;
 - (ii) the applicant has complied with a requirement made by Council under section 13(2); or
 - (iii) any person required by Council to provide verification of any matter by statutory declaration has done so;
- (b) approve the application; or
- (c) refuse the application.

(2) The Secretary shall advise the applicant in writing of any decision made by Council as soon as is practicable.

(3) Where an application has been approved for registration, the Secretary shall advise the Registrar that Council has authorised the registration of the applicant, and shall provide such information as may be required by the Registrar to properly maintain the register.

15. Certificate of registration - Upon entry into the register, the registered person shall be entitled to receive a Certificate of Registration issued by the Registrar.

16. Annual practising certificates-(1) Every registered person shall in every year pay the prescribed fee to the Secretary for the issue of an annual practising certificate.

(2) Each practising certificate shall -

(a) be in the form approved by the Council;

(b) expire on the 31st day of December in the year for which it is issued; and

(c) be issued by the Registrar or the Secretary in accordance with any arrangement made between the Council and the Registrar.

(3) The Council may determine that the entitlement to a practising certificate is conditional upon the registered person having undertaken or agreeing to undertake any course or courses of continuing education approved by the Council.

17. Temporary Practising Certificates-(1) Notwithstanding any provision of this Act to the contrary, the Council may cause to be issued to a person who has made an application for registration under this Act a temporary certificate of permission to practise pharmacy in accordance with any conditions imposed by the Council and noted on the certificate.

(2) A temporary practising certificate may be issued under this section to an applicant who is undertaking a course of relevant study outside Samoa and who -

(a) submits an application to do practical training in a hospital pharmacy or other health care service in Samoa;

- (b) is accepted to do the practical training by the National Health Service, pharmacy or other health care service; and
 - (c) undertakes to work in accordance with any direction given by the Council, the National Health Service or pharmacist in charge of the pharmacy or other health care service, as the case may require.
- (3) A certificate issued under this section may not remain in force for a period of more than three (3) months from the date of its issue but may be renewed for a further period of no more than three (3) months at a time by the Council.
- (4) The Council may cancel a certificate issued under this section for any reason and at any time during its currency.

PART VI DISCIPLINE OF PHARMACISTS

18. Disciplinary procedures applying to pharmacists-(1)

Disciplinary action may be taken against a pharmacist for -

- (a) any breach of the professional standards;
 - (b) any act or omission by the pharmacist in the course of the pharmacist's work which negligently, carelessly, unreasonably, unethically or recklessly places the life or health of any person at risk;
 - (c) any criminal offence committed by a pharmacist which is in any way associated with the work or duties of the pharmacist; or
 - (d) any breach or failure to observe a direction given or requirement imposed by any person empowered by law or contract to give directions or impose requirements on the pharmacist which relate to the work or duties of the pharmacist.
- (2) All disciplinary action taken by the Council against pharmacists shall be in accordance with the procedures prescribed in Part V of the Healthcare Professions Registration and Standards Act.

19. Re-registration - Where the registration of any pharmacist is refused or revoked by Council or a Disciplinary Committee under the Healthcare Professions Registration and Standards Act, the Council shall not be obliged to consider any further application by that person for registration under this Act for a period determined in each case by the Council, which shall be not less than a period of two (2) years following the refusal or revocation.

PART VII ALLIED PHARMACY PROFESSIONALS

20. Regulation of pharmacy assistants and technicians - The Head of State, acting on the advice of Cabinet, may make regulations relating to pharmacy assistants and technicians, including but not limited to -

- (a) the duties and responsibilities which may be performed by pharmacy assistants and pharmacy technicians;
- (b) the recognised qualifications and experience for a person to be regarded as a pharmacy assistant or pharmacy technician;
- (c) the recognition and enforcement of standards and requirements determined by Council to apply to pharmacy assistants and technicians;
- (d) the disciplinary procedures applying to pharmacy assistants and technicians;
- (e) the penalties which may be imposed on pharmacy assistants and technicians for disciplinary breaches; and
- (f) offences and penalties relating to the work of pharmacy assistants and pharmacy technicians, and by persons purporting to hold such positions or perform the duties of allied pharmacy professionals without legal authority.

**PART VIII
OFFENCES**

21. Unlawful practice as a pharmacist-(1) No person shall practise as a pharmacist or carry on business as a pharmacist in Samoa, unless -

- (a) the person is registered as a pharmacist in accordance with this Act and the Healthcare Professions Registration and Standards Act; and
- (b) the person is holding a current practising certificate under this Act.

PROVIDED THAT a person who is practising pharmacy in accordance with a temporary practising certificate issued under section 17 may do so without registration.

(2) Any person who breaches subsection (1) commits an offence and shall be liable upon conviction to imprisonment for a term not exceeding five (5) years or to a fine not exceeding 100 penalty units, or both.

22. Wrongfully purporting to be a pharmacist – Every person who describes themselves or holds themselves out to be a pharmacist without being registered under this Act and without holding a current practicing certificate under this Act commits an offence and shall be liable upon conviction to imprisonment for a term not exceeding two (2) years or to a fine not exceeding 100 penalty units, or both.

23. Supervision of pharmacies by a pharmacist - Every person who –

- (a) operates or manages any pharmacy which is not for any period of time under the immediate supervision and control of a pharmacist; or
- (b) being a pharmacist, neglects to provide proper supervision and control of the pharmacy for which the pharmacist has responsibility to supervise and control -

commits an offence and shall be liable upon conviction to imprisonment for a term not exceeding two (2) years or to a fine not exceeding 100 penalty units, or both.

24. Wrongfully procuring registration - Every person who –

- (a) makes or causes to be made any false entry in the register; or
- (b) procures or attempts to procure registration under this Act for that person or any other person by making any false or fraudulent representation or declaration; or
- (c) furnishes any false information or forged document in support of an application for registration under this Act -

commits an offence and shall be liable upon conviction to imprisonment for a term not exceeding seven (7) years or to a fine not exceeding 100 penalty units, or both.

25. Soliciting of commissions from medical and dental practitioners - Any pharmacist, or proprietor or manager of a pharmacy who gives, offers or agrees to give or offer to any medical or dental practitioner, or to any other person, any money or other consideration as commission or reward for prescriptions, commits an offence and shall be liable upon conviction to imprisonment for a term not exceeding two (2) years or to a fine not exceeding 100 penalty units, or both.

PART IX MISCELLANEOUS

26. No action may lie against the Council etc.-(1) The Registrar, the Ministry, the Council, members of the Council and the Secretary shall not be liable for any loss or damage suffered by any person arising from any act or omission done in relation to the registration and discipline of pharmacists and allied pharmacy professionals under this Act.

(2) The responsibility for establishing a right to be registered under this Act, and for verifying all information provided in support of an application for registration shall lie with the applicant.

27. Fees - The Council may from time to time determine -

- (a) the types of fees to be paid under this Act; and
- (b) the amount of such fees.

28. Regulations-(1) The Head of State, acting on the advice of Cabinet, may from time to time make all such regulations as are necessary or expedient for giving full effect to the provisions of this Act.

(2) Without limiting the generality of subsection (1), regulations may be made in relation to -

- (a) the dispensing of drugs at hospitals, health clinics, medical practices, other health care services and any shop, business or place;
- (b) any matter associated with legislation relating to controls over food, drugs, poisons and narcotics to give proper effect to the provisions of such laws;
- (c) the processes for approving drugs and poisons, or for restricting or banning the release or use of certain drugs or poisons in Samoa;
- (d) clarifying the requirements applying under section 23 in relation to supervision of pharmacies by pharmacists and under section 25 in relation to soliciting prescriptions from medical and dental practitioners;
- (e) prescribing the forms of applications, certificates and other documents required under this Act, and the manner in which notices may be served, and the times when they shall be deemed to have been served;
- (f) prescribing the fees payable in respect of education, examination and registration under this Act, in respect of any alteration of, or addition to any register kept under this Act, and in respect of any other matter under this Act; and
- (g) prescribing fines not exceeding 100 penalty units for the breach of any regulation.

29. Repeal – The Pharmacy Act 1976 is repealed.

30. Transitional and savings provisions-(1) The registration of all pharmacists under the Pharmacy Act 1976 shall continue to have full force and effect as if the registration was made under this Act.

(2) All practising certificates issued under the Pharmacy Act 1976 shall continue to have full force and effect until the 31 December next following the commencement of this Act.

(3) All determinations of the Pharmaceutical Committee made under the Pharmacy Act 1976, and all disciplinary proceedings and criminal proceedings being undertaken by or on behalf of the Pharmaceutical Committee or arising out of or under the Pharmacy Act 1976 as at the commencement of this Act shall be deemed to have been made and taken under this Act.

(4) Any reference in law (other than this Act) to the Pharmacy Act 1976 shall be taken as a reference to this Act except where the context otherwise requires.

**The Pharmacy Act 2007 is administered by the
Ministry of Health.**

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