

AMENDMENTS TO THE MEDICAL PRACTITIONERS AND DENTISTS ACT AND PROPOSED RULES, 2019

LEGAL TEAM MEDICAL PRACTITIONERS AND
DENTISTS COUNCIL.

INTRODUCTION

Amendment of Medical Practitioners and Dentists Act 2019.

Effective date of the amendment act is 17th May 2019.

The amendments introduce new areas and firm up other areas which are instrumental in regulation of the practice.

The amendments call for drafting of additional rules to enhance regulation. Rules will provide a regulatory framework of subsidiary legislation.

The purpose of the session is to receive proposals that will inform the ongoing drafting of regulations required to support the amendments.

1. Registration of Medical Practitioners and Dentists Sec. 6

Instances you can apply for registration under sec 6 of the act.

A person may apply to the Council for registration as a medical and dental practitioner if-

1. (a) is a citizen of Kenya;
(b) is a holder of a degree or other qualification obtained from a University in Kenya or the East African Community which is recognized by the Council as making him eligible for registration;
(c) presents proof of completion of internship; and
(d) satisfies the Council that he is a person of good moral standing.

OR

2. (a) is a citizen of Kenya;
(b) is a holder of a degree or other qualification obtained from a University outside Kenya or outside the East African Community which is recognized by the Council as making him eligible for registration;
(c) has passed the internship qualifying examinations;
(d) presents proof of completion of internship; and
(e) satisfies the Council that he is a person of good moral standing,

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3.
 - (a) is a citizen of Kenya;
 - (b) is a holder of a degree or other qualification obtained from a University outside Kenya or outside the East African Community which is recognized by the Council as making him eligible for registration;
 - (c) presents proof of completion of internship in the country in which he trained;
 - (d) has passed pre-registration examination; and
 - OR** (e) satisfies the Council that he is a person of good moral standing.
4.
 - (a) is a citizen of the East African Community;
 - (b) is a holder of a degree or other qualification recognized by the Council as making him eligible for registration;
 - (c) presents proof of registration in their country of origin; and
 - (d) satisfies the Council that he is a person of good moral standing, may apply to the Council for **reciprocal registration**.

2. Temporary Registration of Foreign Medical and Dental Practitioners

Temporary registration as a foreign medical or dental practitioner under this Act.

5. A person who—

- (a) is not citizen of Kenya or of a partner state of the East African Community;
- (b) is a holder of a degree or other qualification recognized by the Council as making him eligible for registration;
- (c) presents proof of registration from the country of origin or any other jurisdiction;
- (d) satisfies the Council that, he has acquired sufficient knowledge of, and experience in, the practice of medicine or dentistry as the case may be;
- (e) satisfies the Council that he is a person of good moral standing; and
- (f) has passed an examination prescribed by the Council, *may apply to the Council for as is prescribed in regulations.*

All applications shall be in the prescribed form and shall be accompanied by the prescribed fee.

3. Specialists Recognition Sec. 11B

The Council may recognize medical or dental practitioner as a specialist in any of the fields under the Act or the rules thereunder.

(2) A medical or dental practitioner shall be recognized as a specialist if the medical or dental practitioner (a) is a holder of a post graduate qualification equivalent to masters' degree in medicine or dental surgery awarded after a period of training recognized by the Council; and

(b) has at least two years' experience after obtaining the post graduate qualification under the supervision of a recognized specialist.

(3) The Council may recognize a medical or dental practitioner as a sub-specialist in any of the fields under the Act or the rules thereunder.

(4) A medical or dental practitioner shall be recognized as a sub-specialist if the medical or dental practitioner— (a) possesses a basic specialist qualification in his or her discipline;

(b) has at least six months training; and

(c) has at least one year experience under the supervision of a recognized subspecialist.

4. Licences. Sec. 12

~~The Council shall issue general, specialist or other practising licences as it determines from time to time authorizing medical practitioners and dentists named therein to practice medicine or dentistry.~~

(2) An application for a practising licence shall be made to the Council in the prescribed form and accompanied by the prescribed fee.

(3) All medical practitioners and dentists shall be required to satisfy the Council's requirement for continuing professional development before the renewal of annual practising licences.

(4) A practising licence shall bear the date of day on which it is issued and shall have effect from that day: Provided that a practising licence issued during the first month of any practising year shall have effect, for all purposes, from the beginning of that month.

(5) The practising year for a licence shall be from the **first of January to the thirty-first of December**: *Provided that the Council, in consultation with the Cabinet Secretary, may, by order in the Gazette, alter the practising year.*

(6) A practising license shall expire at the end of the practising year in which it was obtained

Provided that, where the name of a medical or dental practitioner is removed or struck off the register, the practising license, if any, shall expire forthwith.

5. Internship and Temporary Licences.

Sec 13

A medical and dental graduate who intends to undertake internship training shall apply to the Council in the prescribed form and upon payment of the prescribed fee for an internship licence.

(2) If the Council is satisfied that the graduate meets the set requirements, it shall issue the graduate an internship licence with or without conditions on the licence.

(3) The Council shall grant temporary licences to eligible foreign medical and dental students to perform specific work or works in specific institutions in Kenya.

(4) An internship licence issued shall be for not more than twelve months within a practising year.

(5) A temporary licence issued shall be for a period not exceeding twelve months within a practising year and may be renewed.

6. Renewal of a Practice Licence. Sec. 14

(1) A medical practitioner or dentist, issued with a practising licence may apply for the renewal of the licence

- in the prescribed form at least thirty days before the expiry.

(2) A medical practitioner or dentist who fails to apply for renewal within the period specified shall be required to pay such late application fee as shall be prescribed by the Council.

(3) The Council may refuse to renew, or suspend, withdraw or cancel any practising licence, if satisfied that the medical practitioner or dentist is guilty of professional misconduct or is in breach of any provisions of this Act or any regulations made thereunder, within a period of twelve months immediately preceding the date of the application for renewal.

(4) A person who is aggrieved by the decision of the Council in the exercise of its powers under subsection may appeal to the High Court.

7. Health Institutions. Sec 15

- (1) **A person or an organization** may apply to the Council for the registration of a health institution in the prescribed form which shall be accompanied by the prescribed fee.
- (2) Where the applicant satisfies the Council that the institution meets the requirements for registration, the Council shall register the facility as an approved health institution.
- (3) The Council shall issue to every approved health institution registered under this Act, a **certificate of registration** in the prescribed form.
- (4) The Council shall issue in accordance with this section and rules made under this Act, a **licence** authorizing the use of any premises as a health institution.
- (5) An application for a licence shall be made to the Council in the prescribed form and accompanied by the prescribed fees and shall be made on or before the **thirtieth of October** of each practising year.

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(6) A licence issued under this section shall bear the date of day on which it is issued and shall have effect from that date: Provided that a licence issued during the first month of any practising year shall have effect for all purposes from the beginning of that month.

(7) A licence issued under this section shall be displayed in a conspicuous place at the health institution to which the licence relates.

(8) A licence issued under this section shall specify the nature of services that may be provided by the health institution.

(9) The Council may decline to renew, cancel, withdraw or revoke any licence issued under this section, if it is satisfied that the health institution is being operated in a manner that contravenes any provisions of the Act or any regulations made under this Act.

(10) A health institution registered under this Act shall be inspected by the Council.

(11) No premise shall be used by any person as a health institution unless it is registered and licenced for such use by the Council.

8. Professional Indemnity. Sec 15A

Every practitioner shall in each year, take a professional indemnity cover and every health institution shall in each year insure the health institution against professional liability of its staff.

9. Disciplinary Proceedings. Sec 20

- (1) Any person who is dissatisfied with any professional service offered, or alleges a breach of standards by a registered or licensed person under this Act, may lodge a complaint in the prescribed manner to the Council.
- (2) The Council may, or through a committee appointed for that purpose, inquire into any complaint of professional misconduct, malpractice or any breach of standards.
- (3) Upon an inquiry held by the Council to determine the complaint made under subsection (2), the person whose conduct is being inquired into shall be afforded an opportunity of being heard, either in person or through a representative.
- (4) For purposes of proceedings at any inquiry held under this section, the Council may administer oaths, enforce the attendance of witnesses and production of books and documents.
- (5) The Council shall regulate its own procedure in disciplinary proceedings.

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- (6) Where after an inquiry, the Council determines that a person is guilty, the Council may—
- (a) issue a caution or reprimand in writing;
 - (b) direct a medical practitioner or dentist to undergo remedial training for a period not exceeding twelve months;
 - (c) direct the medical practitioner or dentist be placed on probation for a period not exceeding six months;
 - (d) suspend, withdraw or cancel the practising licence of a medical practitioner or dentist for a period not exceeding twelve months;
 - (e) suspend, withdraw or cancel the licence of a health institution or a section of the health institution for a period not exceeding twelve months;
 - (f) permanently remove the name of a medical practitioner or dentist from the registers under section 5(3); or
 - (g) in addition to the penalties stipulated in paragraphs (a), (b), (c), (d), (e) or (f), impose a fine which the Council deems appropriate in the circumstance.
- (7) A person or health institution whose licence has been withdrawn or cancelled under subsection (6), shall forthwith surrender the license to the Council.
- (8) A person or health institution whose name has been removed from the register under subsection (6)(f) shall forthwith surrender the registration certificate to the Council.

Disciplinary Proceedings.

(9) A person aggrieved by a decision of the Council made under subsection (6) may, within thirty days from the date of the decision of the Council, appeal to the High Court.

(10) Notwithstanding the provisions of section 3A (5), the Council shall not remove the name of a person from the register under subsection (6) **unless at least seven members of the Council are present in the inquiry.**



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