



SAMOA

NURSING AND MIDWIFERY ACT 2007

Arrangement of Provisions

PART 1 PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Act binds State
4. Practice of nursing

PART 2 THE COUNCIL OF NURSING AND MIDWIFERY

5. Council
6. Secretary of the Council
7. Meetings of the Council
8. Functions and Powers of the Council

PART 3 PROFESSIONAL STANDARDS

9. Professional standards to be determined by the Council
10. Professional standards applying to other healthcare professionals to be taken into account

PART 4 REGISTRATION OF NURSES AND MIDWIVES

11. Qualifications for registration

12. Applications for registration
13. Council to consider applications
14. Decisions of the Council
15. Registers of nurses
16. Certificate of registration and approved badges
17. Annual practising certificates
18. Temporary practising certificates

PART 5 DISCIPLINE OF NURSES AND MIDWIVES

19. Disciplinary procedures applying to nurses and midwives
20. Re-registration

PART 6 NURSING AND MIDWIFE EDUCATION

21. Approval of schools for nursing and midwife education
22. Inclusion of obstetric and mental health education in nursing education
23. Minimum period of nursing education
24. Credit for previous nursing education

**PART 7
OFFENCES**

25. Unlawful practice as a nurse
26. Wrongfully purporting to be a nurse or specialist nurse
27. Wrongfully procuring registration
28. Employment of unregistered persons

**PART 8
MISCELLANEOUS**

29. Government may only employ nurses registered under this Act
30. No action may lie against the Council etc.
31. *Repealed*
32. Regulations
33. Repeal
34. Transitional and savings provisions

2007,

No. 8

AN ACT to provide for the establishment of a reformed Council of Nursing and Midwifery, for the administration of the nursing profession in Samoa and for the determination and enforcement of standards and requirements applying to the training, employment and duties of nurses and midwives and for related matters.

[Assent date: 2February 2007]

[Commencement date: 16 March 2007]

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

**PART 1
PRELIMINARY**

1. Short title and commencement – (1) This Act may be cited as the Nursing and Midwifery Act 2007.

(2) This Act commences 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 1 other newspaper circulating in Samoa.

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

- “chairperson” means the Chairperson of the Council, and includes any member of the Council appointed as a temporary chairperson;
- “Chief Executive Officer” means the Chief Executive Officer of the Ministry of Health;
- “Chief Nurse” means the head registered or specialist nurse of the Ministry, by whatever designation, designated as such by the Chief Executive Officer;
- “council” means the Council of Nursing and Midwifery established under section 5;
- “Director of Medical Services” means the medical practitioner holding the most senior post in the Ministry relevant to clinical services, by whatever designation, designated as such by the Chief Executive Officer;
- “enrolled nurse” means a person registered under this Act as having the requisite qualifications and practical experience in the practice of nursing to be an enrolled nurse;
- “ex officio member” means a member who holds office on the Council by reason of being the holder of the designated office, and who has full power to vote as a member of the council;
- “Healthcare Professions Registration and Standards Act” means the Healthcare Professions Registration and Standards Act 2007;
- “midwifery” as a profession, ensures the necessary supervision, care and advice to women during pregnancy, labour and the postpartum period, and includes conducting deliveries and caring for infants by:
- (a) the provision of preventative and health protective measures;
 - (b) the detection of abnormal conditions in mother and child;
 - (c) the procurement of medical assistance;
 - (d) the execution of emergency measures in the absence of medical help;
 - (e) health counselling for women, families and the community; and

- (f) the provision of antenatal education and preparation for parenthood, including family planning and childcare;
- “Minister” means the Minister responsible for the Ministry;
- “Ministry” means the Ministry of Health established under the Ministry of Health Act 2006;
- “National University of Samoa” means the National University of Samoa established under the National University of Samoa Act 2006;
- “nurse” includes midwife;
- “nursing” as a profession, encompasses autonomous and collaborative care of individuals, families, groups and communities regardless of age and state of health, or the setting in which nursing is practised, and includes:
- (a) the promotion of health;
 - (b) the prevention of illness;
 - (c) the care of sick, disabled and aged persons;
 - (d) support for persons who are terminally ill and for person affected by the death of others;
 - (e) assisting families to nurture persons with current or continuing health deficits;
 - (f) advocacy for and promotion of a safe environment, research practices, effective health policies, sound patient and health systems, management and education;
 - (g) the promotion of a caring, culturally sensitive and ethically sound environment in which health services are provided; and
 - (h) all elements of the practice of nursing;
- “private practice” means the practice of nursing or midwifery by nurses who are not employed by the government to practice nursing on a full time basis;
- “professional standards” include standards of professional conduct, requirements and supervision arrangements;
- “register” means any register of nurses kept by the Registrar under the provisions of this Act and the

Healthcare Professions Registration and Standards Act;

“registered nurse” means a person registered under this Act as having the requisite qualifications and practical experience in the practice of nursing to be a registered nurse;

“registered persons” means persons registered as nurses or midwives under this Act;

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

“Secretary” means the Secretary of the Council;

“Senior Pharmacist” means the pharmacist holding the most senior post in the Ministry, by whatever designation, designated as such by the Chief Executive Officer;

“specialist nurse” means any registered nurse having the requisite qualifications and practical experience determined by the Council as necessary to be registered as a specialist nurse in the specialisation fields of:

- (a) midwifery;
- (b) mental health;
- (c) acute care;
- (d) primary health care;
- (e) leadership and management;
- (f) nursing education; and
- (g) any other area of specialisation approved by the Council;

(2) If an 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 is deemed to be substituted for the former office ceasing to exist.

3. Act binds State – This Act binds the State.

4. Practice of nursing – (1) Subject to this section, for the purpose of this Act the practice of nursing includes:

- (a) the performance by nurses and midwives of the duties and responsibilities which —

- (i) they are educated, authorised and competent to perform; and
 - (ii) are determined or influenced by the settings in which they practice, the health needs of the people and the policy requirements of the health service provider for whom they work; and
- (b) matters involving or connected with —
- (i) collecting data relating to the health status of an individual or group of individuals;
 - (ii) interpreting data and identifying health problems;
 - (iii) setting care goals;
 - (iv) determining nursing interventions;
 - (v) providing care, support and the restoration of life and well-being;
 - (vi) implementing care relevant to medical treatment;
 - (vii) assessing outcomes; and
 - (viii) revising plans for the provision of such matters.

(2) For the purpose of defining the practice of nursing, or specific elements of the practice of nursing, the Director of Medical Services and the Chief Nurse may formulate and require the application of protocols relating to the practice of nursing.

(3) A General Protocol adopted and applied under subsection (2):

- (a) may delegate to a nurse or class of nurse the power to do anything related to administering health care and identified medical, surgical and nursing procedures to a person;
- (b) may apply to any class of nurse as defined by —
 - (i) reference to a classification of registration of a nurse;
 - (ii) any seniority or specific experience of the class of nurse;
 - (iii) reference to an educational qualifications obtained by the class of nurse;
 - (iv) reference to the duties required to be carried out by the designated class of nurse; or

(v) the locality in which the nurse or class of nurse performs their duties;

(c) shall be in writing and signed by the Director of Medical Services and the Chief Nurse; and

(d) shall be subject to review and amendment.

(4) A particular protocol agreed to between a medical practitioner and a registered or specialist nurse responsible for the care of a person:

(a) may direct the treatment to be applied to that person;

(b) entitles the registered or specialist nurse to administer medication to that person;

(c) must be in writing and signed by the medical practitioner; and

(d) must be subject to review and amendment.

(5) Where a registered or specialist nurse reasonably holds the view that an emergency exists which gives rise to a serious risk of danger to the life or health of a person, and no medical practitioner is available to attend upon such an emergency, the registered or specialist nurse:

(a) may make a provisional diagnosis of the state of health of the person;

(b) may carry out such treatment (including the determining and administering of appropriate medication) as the nurse thinks proper;

(c) shall make a verbal or written report of the matter to a responsible medical practitioner as soon as practicable; and

(d) confirm a verbal report by making a written report as soon as practicable.

(6) The exercise of a power under subsection (5) to determine and administer medication must be subject to and in accordance with any Protocol made under subsection (2).

(7) In the formulation and application of a protocol under subsection (2) and concerning any matter under subsections (5) and (6), the Director of Medical Services and the Chief Nurse shall consult with the Senior Pharmacist.

PART 2
COUNCIL OF NURSING AND MIDWIFERY

5. Council – (1) A Council of Nursing and Midwifery is established and shall assume the responsibilities of the Board of Nursing established under the Nursing Act 1969.

(2) The Council of Nursing and Midwifery is 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) Subject to subsection (4), the members of the Council of Nursing and Midwifery shall be:

- (a) the Chief Executive Officer, who shall be an *ex-officio* member;
- (b) the Chief Nurse, who shall be an *ex-officio* member;
- (c) a member of the teaching staff of the School of Nursing at the National University of Samoa appointed by the Dean of the School of Nursing;
- (d) four nurses or midwives appointed by the Samoa Nurses Association (Inc), 1 of whom is to be appointed to represent nurses or midwives in the private health sector; and
- (e) two members of the community appointed by the Minister who have skills which in the opinion of the Minister, after consulting with the Council, may assist the deliberations of the Council.

(4) The Minister may approve the appointment of a medical practitioner to the Council, if a nurse has membership at any time of the Medical Council established under the Medical Practitioners Act 2007.

(5) The members of Council shall appoint a member of the Council to be Chairperson, and may vote on 1 occasion each calendar year to change the appointment of the Chairperson.

PROVIDED THAT in the absence or unavailability of the Chairperson, the Council may appoint another member of the Council to chair a meeting of the Council where the Chairperson is absent or unavailable.

(6) The members of the Council shall hold office for a period of 3 years, and shall be eligible for re-appointment.

(7) 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 3 consecutive meetings of the Council without submitting an apology to Council for the member's absence; and
- (l) for a member of the Council who is a nurse or midwife, professional misconduct or breach of the professional standards approved for nurses under this Act.

(8) The office of any member of the Council shall become vacant if the member:

- (a) is removed from office under subsection (7); or
- (b) dies; or
- (c) resigns from office 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.

(9) A member of the Council is to be paid from the funds of the Ministry, any remuneration and allowances as are approved by Cabinet for members of Government Boards and Committees.

6. Secretary of the Council – (1) The Council shall appoint 1 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 Registrations 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 nurse or midwife, or the determination of professional standards applying to nurses and midwives 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.

7. 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 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 a meeting of the Council at least half plus 1 of the total number of members holding office shall constitute a quorum.

(5) At a 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) A 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 1 of the members indicate their consent to the resolution in writing or by facsimile or email transmission.

8. Functions and Powers of the Council – (1) The functions of the Council are:

- (a) to administer the procedures applying to the registration and discipline of nurses and midwives as provided for by this Act and the Healthcare Professions Registration and Standards Act;
- (b) to recognise courses of nursing education offered at the National University of Samoa as the basis for an entitlement to registration under this Act;
- (c) to approve hospitals and community health care facilities as locations for clinical placements as part of the education of nurses and midwives in Samoa;
- (d) to determine the qualifications and experience necessary for registration as a registered nurse, specialist nurse, enrolled nurse and any other designations of nurses determined by the Council;
- (e) to determine any qualifications and experience necessary for a nurse or midwife to be in private practice or work for the Ministry;
- (f) to approve requirements for nurses of any classification and for midwives to undertake courses of continuing education;
- (g) to determine and apply any credential program to any classification of nurse so as to assess the competence of nurses and midwives in an aspect of clinical practice, at intervals determined by the Council;
- (h) to determine the professional standards applying to nurses and midwives and the practice of nursing in Samoa;

- (i) to bring the professional standards to the attention of registered persons in any manner that the Council thinks fit;
 - (j) to assist the Registrar to effectively monitor and enforce the approved professional standards and notify the Registrar of suspected breaches for investigations to be undertaken;
 - (k) to advise the Ministry and other Government agencies in relation to matters related to the provision of nursing services and the education of nurses and midwives in Samoa;
 - (l) to assist the Ministry to develop, monitor and enforce policies relevant to the provision of nursing services and the education of nurses and midwives in Samoa; and
 - (m) to develop and implement arrangements for the regulation and supervision of enrolled nurses and midwives and other categories of registered nurses and midwives requiring supervision in the performance of aspects of their duties.
- (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 3 PROFESSIONAL STANDARDS

- 9. Professional standards to be determined by the Council – (1) The Council must:**
- (a) determine the professional standards to be observed by nurses and midwives;
 - (b) determine any specific professional standards to apply to a particular classification of nurse or to nurses or midwives in private practice or working for the Ministry;

- (c) 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 health services to the public;
 - (ii) reflect matters of Government policy and administrative practice relating to the provision of health services as advised by the Ministry; and
 - (iii) ensure that the nursing and midwifery services provided to all persons in Samoa meet accepted international standards and are consistent with the human rights applying to all persons in Samoa;
- (d) 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;
- (e) liaise with the Registrar when professional standards, are being determined or changed to ensure that the requirements of paragraph (c) are met;
- (f) notify the Registrar of the approved professional standards, or the changes to them; and
- (g) 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 nurses or midwives in any other country as the professional standards to be observed by nurses and midwives 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 health care 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 nurses and midwives.

PART 4 REGISTRATION OF NURSES AND MIDWIVES

11. Qualifications for registration – (1) To be eligible for registration as a nurse, a person must:

- (a) have successfully completed a course or courses of nursing or midwifery education approved by the Council;
- (b) be of good character and reputation; and
- (c) have the practical experience in the practice of nursing or any aspect of the practice of nursing, required by the Council.

(2) The applicant must satisfy the Council of the requirements for registration stated in subsection (1), and the Council may defer a 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) a required practical experience in the practice of nursing or midwifery;
- (c) a matter relevant to the applicant undertaking private practice or working for the Ministry;
- (d) a current registration as a nurse or midwife in Samoa or elsewhere held by the applicant;
- (e) a current eligibility for the practice of nursing or midwifery held by the applicant, including compliance with a requirement to undertake continuing education;
- (f) the identity, age, good character and reputation of the applicant; and
- (g) a disciplinary action taken against the applicant as a nurse or midwife in Samoa or elsewhere.

(3) A person who was registered as a nurse under the Nursing Act 1969 immediately prior to the commencement of this Act is entitled to registration as a nurse under this Act.

(4) The Council must determine the classification of registration of a nurse or midwife entitled to be registered under this Act by virtue of subsection (3).

12. Applications for registration – (1) An application for registration as an enrolled nurse, registered nurse, specialist nurse or midwife must be:

- (a) made in writing to the Secretary in a form approved by the Council;
- (b) accompanied by the prescribed fee;
- (c) accompanied by 2 recent references as to the applicant's good character, reputation and professional competence given by nurses 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 an application for registration the Council may:

- (a) require the applicant to be interviewed by 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 a matter relevant to the application or seek any further information relevant to it; and
- (d) require a person to verify by statutory declaration an aspect of the application.

14. Decisions of the Council – (1) In relation to an 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) a person required by Council to provide verification of a matter by statutory declaration has done so; or
- (b) approve the application; or
 - (c) refuse the application.

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

(3) If an application has been approved for registration, the Secretary shall advise the Registrar that the 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. Registers of nurses – The Registrar shall maintain separate registers for:

- (a) registered nurses;
- (b) specialist nurses (including midwives), which shall record the area of specialisation;
- (c) enrolled nurses; and
- (d) any other classification of registration determined under this Act and section 10 of the Healthcare Professions Registration and Standards Act.

16. Certificate of registration and approved badges – (1) Upon entry into a register, the registered person shall be entitled to receive a Certificate of Registration issued by the Registrar.

(2) Registered persons are entitled to wear the badges approved by the Council for the relevant classification of registration.

17. Annual practising certificates – (1) A registered person must 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 30th day of June next arising after the date of issue; and
 - (c) be issued by the Registrar or the Secretary in accordance with an arrangement made between the Council and the Registrar.
- (3) The approved form of a practising certificate shall indicate:
- (a) the classification of registration;
 - (b) the area of specialisation of any specialist nurse; and
 - (c) whether the nurse is entitled to a right to private practice or to work for the Ministry, as the case may require.
- (4) The Council may determine that the entitlement to a practising certificate is conditional upon the registered person:
- (a) undertaking or agreeing to undertake a course or courses of continuing education approved by the Council; and
 - (b) having complied with an approved credential programme involving the assessment of the competency of the registered person.

18. Temporary practising certificates – (1) Despite 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 nursing 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 or other health care service in Samoa approved by the Council;
- (b) is accepted to do the practical training by the Chief Nurse; and
- (c) undertakes to work under any direction given by the Council or the Chief Nurse.

(3) A certificate issued under this section may not remain in force for a period of more than 3 months from the date of its issue,

but may be renewed for a further period of no more than 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 5 DISCIPLINE OF NURSES AND MIDWIVES

19. Disciplinary procedures applying to nurses and midwives – (1) Disciplinary action may be taken against a nurse or midwife for:

- (a) a breach of the professional standards; or
- (b) an act or omission by the nurse in the course of the nurse's work which negligently, carelessly, unreasonably, unethically or recklessly places the life or health of a person at risk; or
- (c) a criminal offence committed by the nurse which is in any way associated with the work or duties of the nurse; or
- (d) a breach or failure to observe a direction given or requirement imposed by a person empowered by law or contract to give directions or impose requirements on the nurse which relate to the work or duties of the nurse.

(2) A disciplinary action taken by the Council against nurses and midwives shall be in accordance with the procedures prescribed in Part V of the Healthcare Professions Registration and Standards Act.

20. Re-registration – If the registration of a nurse is refused or revoked by Council or a Disciplinary Committee under the Healthcare Professions Registration and Standards Act, the Council is not obliged to consider any further application by that person for registration under this Act for a period determined in each case by Council, being a period of not less than 2 years following the refusal or revocation.

PART 6 NURSING EDUCATION

21. Approval of schools for nursing education – (1) The National University of Samoa shall be a principal school of nursing education in Samoa, and may offer courses of nursing education and specialist nursing education in accordance with the approvals given to such courses by:

- (a) the National Curriculum Committee on nursing education; and
- (b) the Senate of the National University of Samoa.

(2) The Council may approve a hospital or other appropriate institution as a school for educating nurses and midwives.

(3) The approval of a school under subsection (3) may be limited to an approval of only a defined part of a prescribed course of nursing education.

(4) The approval of a school by the Council under subsection (3) may be revoked by the Council at any time.

22. Inclusion of obstetric and mental health education in nursing education – For the purposes of qualification for registration under this Act:

- (a) as a registered nurse; or
- (b) both as a registered nurse and as a specialist midwife, –

the prescribed course of nursing education must include a course of obstetric and mental health education; and references in this Act to the prescribed course of education shall be construed accordingly.

23. Minimum period of nursing education – Subject to section 22, the period of nursing education for a nurse shall be such period as may be prescribed, being:

- (a) not less than 3 years and not more than 5 years for a registered nurse; and
- (b) not less than 2 years for an enrolled nurse.

24. Credit for previous nursing education – (1) Where a person seeking registration as a nurse has undergone a period of education as a nurse outside Samoa but is not registered as a nurse in a country, the Council may direct that it shall not be necessary for that person to undergo and receive such portion or portions of the prescribed course of education in nursing as the Council determines.

(2) In making a direction under subsection (1), the Council may impose such conditions as it thinks fit in respect of the education to be undertaken by the person to whom the direction applies.

PART 7 OFFENCES

25. Unlawful practice as a nurse – (1) No person shall undertake the practice of nursing as a nurse or midwife in Samoa, unless:

- (a) the person is registered as a nurse under this Act and the Healthcare Professions Registration and Standards Act; and
- (b) the person holds a current practising certificate under this Act, –

PROVIDED THAT a person who is practising nursing or midwifery in accordance with a temporary practising certificate issued under section 18 may do so without registration.

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

(3) A person who is not a registered person or does not hold a current practicing certificate under this Act and who wears the uniform or a distinctive part of the uniform approved for a class of nurse registered under this Act commits an offence and is liable upon conviction to a fine not exceeding 10 penalty units.

26. Wrongfully purporting to be a nurse or specialist nurse – A person who describes themselves or holds themselves out to be an enrolled nurse, a registered nurse, a specialist nurse or a midwife without being registered under this Act and without holding a current practicing certificate commits an offence and is liable upon conviction to imprisonment for a term not exceeding 2 years or to a fine not exceeding 100 penalty units, or both.

27. Wrongfully procuring registration – A person who:

- (a) makes or causes to be made a false entry in a register kept under this Act; or

- (b) procures or attempts to procure registration under this Act for that person or any other person by making a false or fraudulent representation or declaration; or
- (c) provides a false information or forged document in support of an application for registration under this Act, –

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

28. Employing unregistered persons – A person who employs or offers employment to a person as a nurse or midwife in a hospital or clinic, or in any other setting or program in which health services are provided, whilst knowing that the person is not registered under this Act or that the person does not have a current practicing certificate under this Act commits an offence and is liable upon conviction to imprisonment for a term not exceeding 1 year or to a fine not exceeding 100 penalty units, or both.

PART 8 MISCELLANEOUS

29. Government may only employ nurses registered under this Act – The Public Service Commission, the Ministry and any other agency of the Government responsible for the provision of health services, may only employ registered persons who have a current practicing certificate under this Act to perform the duties of nurses and midwives in hospitals, clinics and other settings and programs in which health services are provided.

30. 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 a person arising from an act or omission done in relation to the registration and discipline of nurses 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.

31. *Repealed.*

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

(2) Without limiting subsection (1), regulations made under this section may:

- (a) prescribe 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 are deemed to have been served;
 - (b) prescribe the fees payable in respect of education, examination and registration under this Act, in respect of an alteration of or addition to a register kept under this Act, and in respect of any other matter under this Act; and
 - (c) prescribe fines not exceeding 100 penalty units for the breach of a regulation.
- (3) Any fee prescribed under subsection (2)(b):
- (a) shall be proposed by the Council; and
 - (b) is subject to the consideration and approval of the National Revenue Board under the Public Finance Management Act 2001.

33. Repeal – The Nursing Act 1969 is repealed.

34. Transitional and savings provisions – (1) Subject to subsection (2), the registration of all nurses under the Nursing Act 1969 continues to have full force and effect as if the registration was made under this Act.

(2) The Council shall determine the classification of registration of a nurse or midwife deemed to be registered under this Act by virtue of subsection (1).

(3) All practicing certificates issued under the Nursing Act 1969 continue to have full force and effect until 30 June next following the commencement of this Act.

(4) All determinations of the Board of Nursing made under the Nursing Act 1969, and all disciplinary proceedings and

criminal proceedings being undertaken by or on behalf of the Board of Nursing or arising out of or under the Nursing Act 1969 as at the commencement of this Act are deemed to have been made and taken under this Act.

(5) A reference in law (other than this Act) to the Nursing Act 1969 shall be taken as a reference to this Act except where the context otherwise requires.

REVISION NOTES 2008 – 2020/3 March 2021

This is the official version of this Act as at 3 March 2021.

This Act has been revised by the Legislative Drafting Division from 2008 – 2020/3 March 2021 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

Minor editing has been done in accordance with the lawful powers of the Attorney General, where appropriate:

- (i) Present tense drafting style:
 - “shall be” changed to “is”
- (ii) Use of plain language
 - “in the case of” changed to “for”
 - “it shall be the responsibility of” changed to “must”
 - “where” changed to “if”
 - “in accordance with” changed to “under”
- (iii) Removal of superfluous terms – “the generality of”.

The following general revisions have been made:

- (a) substituted “National Health Service Act 2006” with “National Health Service Act 2014”.
- (b) substituted “National University of Samoa Act 1997” with “National University of Samoa Act 2006”.
- (c) Roman Numerals changed to decimal numbers.

The following amendments were made to this Act since the publication of the *Consolidated and Revised Statutes of Samoa 2007*:

By the *Fees and Charges (Miscellaneous Amendments) Act 2017, No. 13*:

Amendments made to this Act reflect that fees charged under this Act are to be prescribed by Regulations. Amendments are made to sections 12, 31 and 32.

By the *Ministry of Health Amendment Act 2019, No. 2 (commenced 1 February 2019)*:

- Section 2** omitted “or National Health Service” from the definitions of “Chief Nurse”, “Director of Medical Services” and “Senior Pharmacist”;
- Section 8(1)(k)** omitted “, the National Health Service”;
- Section 8(1)(l)** omitted “and the National Health Service”;
- Section 29** omitted “, the National Health Service”;

General amendments substituting “National Health Service” with “Ministry” wherever occurring. Amendments are made to sections 8(1)(e), 9(1)(b), 11(2)(c) and 17(3)(c).

*This Act is administered by
the Ministry of Health.*