

THE NURSES AND MIDWIVES BILL, 2019

MEMORANDUM

The objects of this Bill are to—

- (a) regulate the education and training of nurses and midwives;
- (b) continue the existence of the General Nursing Council and rename it as the Nursing and Midwifery Council of Zambia and provide for its functions;
- (c) provide for the registration of, and issuance of practising certificates to nurses and midwives;
- (d) provide for the scope of practice of nursing and midwifery;
- (e) regulate the practice and professional conduct of nurses and midwives;
- (f) provide for the licensing of nursing and midwifery facilities;
- (g) repeal and replace the Nurses and Midwives Act, 1997; and
- (h) provide for matters connected with, or incidental to, the foregoing.

L. KALALUKA,
Attorney-General

THE NURSES AND MIDWIVES BILL, 2019

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A BILL

ENTITLED

An Act to regulate the education and training of nurses and midwives; continue the existence of the General Nursing Council and rename it as the Nursing and Midwifery Council of Zambia and provide for its functions; provide for the registration of, issuance of practising certificates to, nurses and midwives; provide for the scope of practice of nurses and midwives; regulate the practice and professional conduct of nurses and midwives; provide for the licensing of nursing and midwifery facilities; repeal and replace the Nurses and Midwives Act, 1997; and provide for matters connected with, or incidental to, the foregoing.

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ENACTED by the Parliament of Zambia

Enactment

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Nurses and Midwives Act,
5 2019, and shall come into operation on the date appointed by the Minister by statutory instrument.

Short title
and
commencement

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

Interpretation

10 “administer” means to give a medicine or an allied substance to a human being orally, by injection, by external application or by introduction into the body in any other way, whether by direct contact with the body or not;

N.A.B. 14, 2019

Act No. 3 of 2012	<p>“associate” has the meaning assigned to the word in the Anti-Corruption Act, 2012;</p> <p>“Board” means the Board of the Council constituted in accordance with section 5;</p> <p>“certificate of accreditation means a certificate of accreditation of a practical training site issued in accordance with section 44; 5</p> <p>“certificate of approval” means a certificate of approval of a training programme issued in accordance with section 36;</p> <p>“certificate of full registration” means a certificate of full registration as a nurse or midwife issued in accordance with section 19; 10</p> <p>“certificate of provisional registration” means a certificate of provisional registration as a nurse or midwife issued in accordance with section 17; 15</p> <p>“certificate of registration” means, as the case may be, a certificate of full registration, certificate of provisional registration, certificate of temporary registration or specialist registration certificate;</p> <p>“Chairperson” means the person appointed as Chairperson of the Board in accordance with section 5; 20</p> <p>“Aclinical practice” means nursing or midwifery services provided by a nurse or midwife;</p> <p>“Code of Ethics” means the Code of Ethics for nurses and midwives developed and published in accordance with section 66; 25</p>
Act No. 4 of 2013	<p>“college” means a higher education institution established, declared or registered as a college in accordance with the Higher Education Act, 2013;</p> <p>“committee” means a committee of the Board constituted in accordance with paragraph 4 of the First Schedule; 30</p> <p>“competence examination” means examinations administered by the Council for the purpose of establishing the prospective practitioner’s professional practice competence levels and suitability to be registered and issued with a practising certificate under this Act; 35</p> <p>“Council” means the Nursing and Midwifery Council of Zambia established under section 3;</p>
Cap. 1	<p>“Defence Force” means the Defence Force established under the Constitution; 40</p> <p>“diagnostic centre” means a laboratory or radiological service, or any other related service;</p> <p>“dispense” means to prepare and give out a medicine or an allied substance and other necessity to a patients or clients;</p>

	“education and training programme” means a training programme offered by a higher education institution to prepare students for a nursing or midwifery profession;	
5	“Emoluments Commission” means the Emoluments Commission established under the Constitution;	Cap. 1
	“former Council” means the General Nursing Council established or continued under the repealed Act;	Act No. 31 of 1997
10	“health facility” has the meaning assigned to the words in the Health Professions Act, 2009;	Act No. 4 of 2009
	“Health Professions Council of Zambia” means the Health Professions Council of Zambia established by the Health Professions Act, 2009;	Act No. 4 of 2009
15	“Higher Education Authority” means the Higher Education Authority established by the Higher Education Act, 2013;	Act No. 4 of 2013
	“higher education institution” has the meaning assigned to the words in the Higher Education Act, 2013;	Act No. 4 of 2013
	“hospital” has the meaning assigned to the word in the Health Professions Act, 2009;	Act No. 4 of 2009
20	“indexing” means the process of identifying individual students enrolled in a nursing or midwifery education and training programme by assigning them a unique identification number;	
	“legal practitioner” has the meaning assigned to the word “A practitioner” in the Legal Practitioners Act;	Cap. 30
25	“legally disqualified” means having no legal capacity as provided in section 4 of the Mental Health Act, 2019;	Act No. 6 of 2019
30	“licensure examinations” means examinations set and conducted by the Council in respect of applicants for registration as nurses or midwives whose nursing or midwifery qualifications have been obtained from a higher education institution whose competence examinations are not set and conducted by the Council;	
	“member” means a member of the Board;	
35	“medicines and allied substances” has the meaning assigned to the words in the Medicines and Allied substances Act, 2013;	Act No. 3 of 2013
	“midwife” means a person registered as a midwife in accordance with this Act;	
40	“midwifery agency” means a privately-owned facility registered under this Act for the purpose of providing midwives and midwifery services on a contractual arrangement with a provider of healthcare service;	
45	“midwifery care centre” means a privately-owned facility staffed with midwifery personnel and registered under this Act for the purposes of providing midwifery services in a setting, in the community;	

- “nurse” means a person registered as a nurse in accordance with this Act;
- “nursing agency” means a facility registered under this Act for the purposes of providing nurses and medical-surgical nursing care services on a contractual arrangement with a provider of healthcare services; 5
- “nursing care centre” means a facility staffed with nursing personnel and registered under this Act for the purpose of providing medical-surgical care in a setting, in the community; 10
- “nursing home” means premises licensed in accordance with this Act and used, or intended to be used, to provide specialised, follow-up or continued nursing care of persons suffering from a chronic disease, chronic injury or chronic infirmity; 15
- “nursing or midwifery institution” means a higher education institution providing nursing or midwifery training, and includes a school of nursing or midwifery in a university;
- “nursing or midwifery facility” means a nursing agency, midwifery agency, nursing care centre, midwifery care centre, nursing home or other premises where nursing or midwifery services are provided; 20
- “practical training site” means a site that is accredited for purposes of giving students a supervised practical application of a previously or concurrently studied theory; 25
- “practising certificate” means a certificate, issued to a nurse or midwife in accordance with section 25, authorising the holder to practise as a nurse or midwife;
- “prescribe” means to order the use of a medicine or other treatment, and includes filling or writing a prescription for a patient or client; 30
- “private nursing or midwifery institution” means a privately-owned higher education institution whose nursing or midwifery education and training programme is approved in accordance with the provisions of this Act; 35
- “private clinical practice” means clinical practice for commercial or voluntary purposes;
- “professional association” means an organisation the majority of whose members are nurses and midwives and which seeks to promote the professional interests of nurses and midwives; 40
- “public nursing or midwifery institution” means a government owned or faith-based higher education institution whose nursing or midwifery education and training programme is approved in accordance with the provisions of this Act; 45
- “register” means a register specified in section 76;

	“Registrar” means the person appointed as Registrar of the Council in accordance with section 8;	
	“relative” has the meaning assigned to the word in the Anti-Corruption Act, 2012;	Act No. 3 of 2012
5	“repealed Act” means the Nurses and Midwives Act, 1997;	Act No. 31 of 1997
	“scope of practice” means the range of roles, functions, responsibilities and activities which a nurse or midwife is authorised to perform or carry out under this Act;	
10	“specialist” means a nurse or midwife who has attained postgraduate qualifications and is authorised by the Council to practise as a specialist with advanced expertise in a particular branch of nursing or midwifery practice;	
	“specialist registration certificate” means a specialist registration certificate issued in accordance with section 19;	
15	“student” means a person enrolled in and undertaking an approved nursing or midwifery, or both education and training programme;	
	“university” means a higher education institution established, declared or registered as university in accordance with the Higher Education Act, 2013;	Act No. 4 of 2013
20	“Vice-Chairperson” means the person elected as Vice-Chairperson of the Board in accordance with section 5; and	
25	“Zambia Qualifications Authority” means the Zambia Qualifications Authority established by the Zambia Qualifications Authority Act, 2011.	Act No. 13 of 2011

PART II

THE NURSING AND MIDWIFERY COUNCIL OF ZAMBIA

- 30 **3.** (1) The General Nursing Council of Zambia established under the Nurses and Midwives Act, 1997, is continued as if established under this Act and is renamed as the Nursing and Midwifery Council of Zambia.
- (2) The Council is a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name, and with power, subject to the provisions of this Act, to do all acts and things that a body corporate may by law do or perform.
- 35 (3) The provisions of the First Schedule apply to the Council.
- 4.** The functions of the Council are to—
- (a) register and regulate nurses and midwives;
- 40 (b) issue practising certificates to eligible nurses and midwives;

Continuation and renaming of the General Nursing Council
Act No. 31 of 1997

Functions of the Council

-
- (c) set and enforce professional standards of nursing and midwifery education, training and practice;
- (d) approve, in consultation with the Higher Education Authority and the Zambia Qualifications Authority, training programmes for nurses and midwives and the qualifications obtained; 5
- (e) licence nursing and midwifery facilities;
- (f) conduct licensure examinations;
- (g) conduct competence examinations and award prescribed qualifications in respect of those examinations; 10
- (h) investigate cases of professional misconduct under this Act;
- (i) promote public awareness in matters relating to the nursing and midwifery profession;
- (j) promote awareness among nurses and midwives in matters relating to nursing and midwifery education, practice and regulation; 15
- (k) ensure adherence to the—
- (i) scope of practice; and
- (ii) conditions that promote patient safety and public confidence in the nursing and midwifery profession; 20
- (l) enforce continuing professional development requirements for nurses and midwives;
- (m) accredit practical training sites;
- (n) promote evidence-based practice through research; 25
- (o) liaise with other national and international organisations on matters relating to nursing and midwifery education, practice and regulation; and
- (p) advise the Minister on matters relating to nursing and midwifery. 30
- Constitution of Board of Council
- 5.** (1) There is constituted the Board of the Council which consists of the following part-time members appointed by the Minister:
- (a) the head of a professional association with the highest number of nurses and midwives as members; 35
- (b) a nurse or midwife in charge of nursing and midwifery services at the Ministry responsible for health;
- (c) a representative each of the—
- (i) Attorney-General;
- (ii) Ministry responsible for Higher Education; 40
- (iii) Health Professions Council of Zambia; and
- (iv) Churches Health Association of Zambia;

- (d) a nurse or midwife from the association representing private nursing and midwifery colleges;
- (e) a representative from the business community; and
- 5 (f) a person who has distinguished oneself in the service of the public.

(2) The Minister shall appoint the Chairperson from among the members.

(3) The members shall elect one person among themselves as the Vice-Chairperson.

- 10 (4) A person shall not be appointed as a member if that person
- (a) has been found guilty of professional misconduct under this Act;
- (b) convicted of an offence under this Act;
- (c) is an undischarged bankrupt;
- 15 (d) is legally disqualified;
- (e) has been convicted of an offence involving fraud or dishonesty; or
- (f) is an employee of the Council.

6. (1) The Board is the governing body of the Council.

- 20 (2) Without limiting the generality of subsection (1), the functions of the Board are to—

Functions of Board

- (a) approve the policies, programmes and strategies of the Council;
- (b) approve the annual work plan, action plans and activity reports of the Council;
- 25 (c) approve the annual budget estimates and financial statements of the Council;
- (d) monitor and evaluate the performance of the Council against budgets and plans; and
- 30 (e) advise the Minister on matters relating to nursing and midwifery practice.

7. The Board may, by direction in writing and on conditions that the Board considers necessary, delegate to the Registrar any of its functions under this Act.

Delegation of functions of Board

- 35 **8.** (1) The Board shall appoint a Registrar who shall be—
- (a) the chief executive officer and secretary of the Council; and
- (b) responsible for the daytoday administration of the Council.

Registrar

(2) The Registrar shall be a nurse or midwife registered with
40 a valid practising certificate issued under this Act.

(3) The Registrar shall attend meetings of the Board and of committees, and may address those meetings but shall not vote on any matter.

(4) The Board may, whenever the Registrar is for any reason unable to discharge the functions of the Registrar, appoint a person to discharge the functions of the Registrar.

Staff of Council

9. The Council shall appoint other staff of the Council that the Council considers necessary for the performance of the Council's functions.

Emoluments and other conditions of service of Registrar and other staff

10. (1) The Emoluments Commission shall, on the recommendation of the Board, determine the emoluments of the Registrar and other staff of the Council.

(2) The Board shall determine the conditions of service, other than emoluments, of the Registrar and other staff of the Council.

PART III

15

INSPECTORATE

Inspectorate

11. (1) The Board shall establish an inspectorate of the Council for purposes of ensuring compliance with the provisions of this Act.

(2) The Registrar shall appoint suitably qualified persons as inspectors for purposes of this Act.

(3) The Board shall provide an inspector with an identification card which shall be *prima facie* evidence of the inspector's appointment as such.

(4) An inspector shall, in performing a function under this Act—

(a) be in possession of the identification card referred to in subsection (3); and

(b) show the identification card to any person who requests to see the card or is subject to an investigation for purposes of this Act.

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Power of entry, search and inspection

12. (1) An inspector may, for the purposes of enforcing the provisions of this Act, at any reasonable time, without prior notice, and on the authority of a warrant—

(a) enter and search premises of a nursing or midwifery facility, nursing or midwifery institution or practical training site in order to—

(i) ensure the suitability of the premises for use as a training facility; or

(ii) search any person on the premises if the inspector has reasonable grounds to believe that the person has possession of an article, document or record that has a bearing on an inspection or investigation, except that a person shall only be searched by a person of the same sex;

- (b) take extracts from, or make copies of any book, document or record that is on the premises and that has a bearing on an inspection or investigation;
- 5 (c) demand the production of, and inspect, relevant certificates; or
- (d) make such inquiries as may be necessary to ascertain whether the provisions of this Act or any other law on which an inspection or investigation is based have been complied with.
- 10 (2) A court may issue a warrant on application by an inspector if it appears from written information given by that inspector, on oath or affirmation, that there are reasonable grounds to believe that this Act has been or is likely to be contravened.
- (3) An inspector who removes anything from any premise
- 15 shall—
- (a) issue a receipt for anything removed to the owner or the person in control of the premises; and
- (b) return anything removed as soon as practicable after the thing has served the purpose for which it was removed.
- 20 (4) A person commits an offence if that person—
- (a) delays or obstructs an inspector in the performance of that inspector's functions under this Act;
- 25 (b) refuses to give an inspector such reasonable assistance as the inspector may require for the purpose of performing the inspector's functions;
- (c) impersonates an inspector or presents oneself to be an inspector; or
- 30 (d) wilfully gives an inspector false or misleading information in answer to an inquiry made by the inspector.
- (5) A person who contravenes subsection (4) is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.
- 35 (6) An inspector shall furnish the Council with a written report relating to an inspection.

13. The Council shall develop a code of conduct for inspectors for the purposes of performing the functions under this Act.

Code of
conduct for
inspectors

PART IV

REGISTRATION OF NURSES AND MIDWIVES, AND PRACTISING
CERTIFICATES

- 14.** (1) A person shall not practice as a nurse or midwife unless that person is registered as a nurse or midwife in accordance with this Act. 5
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both. 10
- 15.** (1) A person who intends to be registered as a nurse or midwife shall apply to the Council for registration in the prescribed manner and form on payment of a prescribed fee.
- (2) A person referred to in subsection (1) may be registered — 15
- (a) provisionally;
- (b) temporarily;
- (c) fully; or
- (d) as a specialist.
- (3) The Council shall, within thirty days of receipt of an application under subsection (1), grant or reject the application. 20
- (4) The Council shall, where it rejects an application under this section, inform the applicant, in writing, of the rejection and the reasons for the rejection.
- 16.** (1) A person qualifies for registration as a nurse or midwife if that person— 25
- (a) possesses such knowledge, training and experience as may be prescribed;
- (b) is resident in Zambia or has an established office or appointment in Zambia in the nursing or midwifery profession; 30
- (c) is of good character and good professional standing; and
- (d) meets other requirements that the Minister may, on the recommendation of the Council, prescribe by statutory instrument.
- (2) A person does not qualify for registration as a nurse or midwife if that person— 35
- (a) does not possess the prescribed qualifications;
- (b) has been de-registered and an order has not been made for the person's re-registration;
- (c) has been convicted of an offence involving fraud or dishonesty under this Act or any other written law; 40
- (d) is legally disqualified;

- (e) is an undischarged bankrupt; or
 (f) has been found guilty of professional misconduct under this Act.

17. (1) A person may apply for provisional registration if that
 5 person— Provisional registration

- (a) holds a qualification, obtained outside Zambia which makes that person eligible to register or practice as a nurse or midwife in the country where the qualification was obtained;
 10 (b) possesses knowledge and training that may be prescribed;
 (c) has passed the prescribed assessment conducted by the Council;
 (d) is registered as a result of an international agreement between the Republic and a Government of a foreign
 15 country;
 (e) provides a certificate of registration from the regulatory body in the foreign country where the person is currently practising, where applicable;
 (f) has sufficient knowledge of the English language; and
 20 (g) has partially met the requirements that the Council may prescribe.

(2) The Council shall, where an application meets the requirements of this Act, register the applicant provisionally and issue the applicant with a certificate of provisional registration.

25 (3) A certificate of provisional registration is valid for a period of two years and may be renewed for a further period of two years if the holder's application for full registration during the first two years of provisional registration is rejected.

(4) A holder of a certificate of provisional registration shall,
 30 within the validity period of the certificate, apply to the Council for full registration.

(5) A holder of a certificate of provisional registration shall only practise under the supervision of a nurse-in-charge or midwife-in-charge.

35 18. (1) A person may apply for full registration if, in addition to the qualifications specified in or under section 14, that person holds a qualification in nursing or midwifery obtained from a higher education institution. Full registration

(2) A holder of a certificate of provisional registration may
 40 apply for full registration if the holder—

- (a) has worked for a period of not less than twelve months in a health facility accredited by relevant authorities and produces a certificate of competence from the nurse-in-charge of the health facility; and

- (b) has complied with the other requirements prescribed under this Act.
- (3) The Council shall, where an application meets the requirements of this Act, register the applicant fully and issue the applicant with a certificate of full registration. 5
- Specialist registration **19.** (1) A person may apply for registration as a specialist if that person—
- (a) is a holder of a certificate of full registration;
- (b) holds a post-graduate qualification in nursing or midwifery obtained from a— 10
- (i) higher education institution whose training programme is approved by the Council; or
- (ii) foreign higher education institution whose qualifications in nursing or midwifery are recognised and validated by the Zambia 15 Qualifications Authority; and
- (c) holds a post-graduate qualification in nursing, midwifery or other health related discipline obtained from a—
- (i) higher education institution whose education and training programme is accredited by the Higher 20 Education Authority; and
- (ii) foreign higher education institution whose qualifications in nursing, midwifery or health related are recognised and validated by the Zambia Qualifications Authority. 25
- (2) The Council shall, where an application meets the requirements of this Act, register the applicant as a specialist and issue the applicant with a specialist registration certificate.
- Changes in detail **20.** A person registered under this Act shall notify the Registrar of any change in the particulars relating to that person's registration 30 within seven days of the change.
- Cancellation of certificate of registration and deregistration **21.** (1) The Council shall cancel a certificate of registration if—
- (a) the certificate of registration was obtained through fraud, misrepresentation or concealment of a material fact; 35
- (b) the holder of the certificate of registration is found guilty of professional misconduct under this Act;
- (c) the holder of the certificate of registration is convicted of an offence under any written law and sentenced to imprisonment for a period exceeding six months without 40 the option of a fine;
- (d) since the registration, circumstances have arisen that disqualify the holder of the certificate of registration for registration; or

- (e) such other grounds exist for the cancellation of the certificate of registration as the Minister may, by statutory instrument, prescribe.
- (2) The Council shall, before cancelling a certificate of registration under subsection (1), give the holder of the certificate of registration an opportunity to be heard in the prescribed manner.
- (3) The Council may, before cancelling a certificate of registration, suspend the certificate of registration for a period and on conditions that the Council may determine.
- (4) The Council shall, where the Council cancels a certificate of registration in accordance with this section, deregister the nurse or midwife whose certificate of registration is cancelled.
- 22.** (1) A deregistered nurse or midwife may apply for re-registration in circumstances and manner that the Minister, on the recommendation of the Council, may prescribe.
- (2) An application for re-registration shall be accompanied by a prescribed fee.
- 23.** (1) A person shall not practise as a nurse or midwife if that person does not hold a practising certificate issued by the Council in accordance with this Act.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding nine hundred thousand penalty units or to imprisonment for a period not exceeding nine years, or to both.
- 24.** (1) A nurse or midwife who intends to practice as a nurse or midwife shall apply for a practising certificate in the prescribed manner and form on payment of a prescribed fee.
- (2) The Registrar shall, within fourteen days of receipt of an application under subsection (1) and where the application meets the requirements of this Act, issue the nurse or midwife with a practising certificate.
- 25.** A holder of a practising certificate shall display an identity card in a conspicuous place at the place of practice.
- 26.** (1) A practising certificate shall be renewed annually in the prescribed manner and form on payment of a prescribed fee.
- (2) A practising certificate shall be valid up to 31st December of each year.
- (3) A practising certificate that is not renewed in accordance with subsection (1) is void.
- (4) A nurse or midwife who practices during any period when that nurse's or midwife's practising certificate is void commits an offence and is liable, on conviction, to a fine not exceeding twenty five thousand penalty units.

Re-
registration
of nurse or
midwife

Prohibition
of practise
without
practising
certificate

Application
for and issue
of a
practising
certificate

Identity
cards

Renewal of
practising
certificate

(5) A person that employs a nurse or midwife during any period when the nurse's or midwife's practising certificate is void commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Cancellation of practising certificate
Cap. 295

27. (1) The Council shall cancel a practising certificate if the holder—

- (a) contravenes the provisions of the Public Health Act or any other relevant written law;
- (b) is found guilty of professional misconduct;
- (c) becomes legally disqualified; 10
- (d) becomes an undischarged bankrupt;
- (e) is the proprietor or in charge, of a health facility which is closed or whose licence is cancelled in accordance with the Health Professions Act, 2009;
- (f) obtained the practising certificate through fraud, misrepresentation or concealment of a material fact; 15
- (g) commits an offence under this Act;
- (h) is deregistered under this Act.

Act No. 24 of 2009

(2) The Council shall, before cancelling a practising certificate, give the nurse or midwife an opportunity to be heard in the prescribed manner.

(3) The Council may, before cancelling a practising certificate, suspend the practising certificate for a period and on conditions the Council may determine.

Retention of non-practising nurse or non-practising midwife on register

28. The Council may, where a nurse or midwife informs the Registrar that the nurse or midwife does not intend to practise for a specified period of time, maintain the name of the nurse or midwife on the applicable register, in a non-practising category for that period of time.

Regulations on practising certificates

29. The Minister on the recommendation of the Council, may make regulations prescribing—

- (a) the terms and conditions for the issuance of practising certificates;
- (b) the type of continuing professional development or training and any other information required for the issuance of a practising certificate; and 35
- (c) any other matter necessary for purposes of this Act.

Prohibition of transfer of certificate

30. A certificate issued under this Part shall not be transferred to a third party. 40

31. (1) A person whose certificate of registration or practising certificate is destroyed or lost may apply to the Registrar for a duplicate certificate in the prescribed manner and form on payment of a prescribed fee. Duplicate certificate
- 5 (2) The Registrar may, on receipt of an application under subsection (1), issue to the applicant a duplicate certificate of registration or duplicate practising certificate, as the case may be.
32. (1) A nurse or midwife whose certificate of registration or practising certificate is cancelled shall, within seven days of 10 being notified of the cancellation, surrender the certificate to the Council. Surrender of cancelled certificate
- (2) A person who contravenes subsection (1) commits an offence.
- PART V
- 15 EDUCATION AND TRAINING OF NURSES AND MIDWIVES
33. (1) A higher education institution shall not provide, or hold out as providing, training in nursing or midwifery unless the training programme is approved by the Council in consultation with the Higher Education Authority and the Zambia Qualifications Authority. Prohibition of provision of nursing or midwifery training without approval
- 20 (2) A higher education institution that contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units, and to an additional fine of forty thousand penalty units for each day during which the offence continues.
- 25 34. (1) A higher education institution that intends to provide training in nursing or midwifery shall apply to the Council for approval of that higher education institution's proposed training programme in the prescribed manner and form on payment of a prescribed fee. Application for approval of training programme
- 30 (2) The Council shall, within ninety days of receipt of an application under subsection (1), grant or reject the application.
- (4) The Council shall, where the Council rejects an application under this section, inform the applicant, in writing, of the rejection and the reasons for the rejection.
- 35 35. (1) The Council may, after reviewing a proposed training programme and in consultation with the Higher Education Authority and the Zambia Qualifications Authority approve the training programme if the training programme meets the requirements of this Act the Higher Education Act, 2013, and the Zambia 40 Qualifications Authority, 2011. Approval of training programme
Act No. 4 of 2013
Act No. 13 of 2011

- (2) The Council shall, where the Council approves a training programme in accordance with subsection (1), issue the applicant with a certificate of approval in the prescribed form.
- (3) The Council may accept the successful completion of a training programme approved in accordance with subsection (1), as satisfaction some or all of the requirements for registration as a nurse or midwife. 5
- 36.** A holder of a certificate of approval shall display the certificate in a conspicuous place at the premises at which the holder provides training in nursing or midwifery . 10
- 37.** The Council shall review an approved education and training programme from time to time but not later than five years after the approval of the education and training programme.
- 38.** (1) The Council shall, in consultation with the Higher Education Authority withdraw the approval of a training programme if the— 15
- (a) education and training programme no longer meets the requirements of this Act or the Higher Education Act, 2013;
- (b) graduates of the education and training programme consistently fail to meet the standards required by the nursing or midwifery profession; or
- (c) approval was obtained through fraud, or misrepresentation or concealment of a material fact.
- (2) The Council shall, before withdrawing the approval of a education and training programme in accordance with subsection (1), give the higher education institution concerned an opportunity to be heard in the prescribed manner. 25
- (3) The Council may, before withdrawing the approval of a education and training programme, and in consultation with the Higher Education Authority suspend the education and training programme for a period and on conditions the Council may determine. 30
- (4) The Council shall redeploy an indexed student into another higher education institution where an education and training programme has been withdrawn under subsection (1). 35
- 39.** (1) Subject to subsection (2), a higher education institution, in respect of which the Council withdraws the Council,s approval of an education and training programme may apply to the Council for re-approval of the education and training programme in the prescribed manner and form, and on payment of a prescribed fee, if that higher education institution takes remedial measures to the satisfaction of the Council the Higher Education Authority and the Zambia Qualifications Authority. 40

(2) An application for re-approval of a education and training programme may be made after one year from the date of the withdrawal of approval.

40. (1) The Minister may, by statutory instrument, on the recommendation of the Board, make regulations to provide for—

- (a) education and training to be undertaken by students; and
- (b) continuing professional development to be undertaken by nurses and midwives.

(2) Without limiting of the generality of subsection (1), regulations made under that subsection may provide for—

- (a) the conditions for admission to a education and training programme and the duration of the training;
- (b) the course structure and course content of the training programme;
- (c) the system of preparing students for a nursing or midwifery profession;
- (d) the minimum professional and technical education and training to be provided by a higher education institution to a person who is to be registered in the nursing or midwifery profession;
- (e) the infrastructure, the training curricula, training equipment and staffing levels required for the provision of a education and training programme;
- (f) the nature and extent of continuing professional development required for the issuance of practising certificates;
- (g) the criteria for recognition by the Council of continuing professional development programmes;
- (h) the accreditation of providers of continuing professional development programmes; and
- (i) procedure for submission of records and annual returns to the Council.

41. (1) A health facility shall not be used or hold itself out, as a practical training site without being accredited by the Council.

(2) A higher education institution shall not send its students to a practical training site for practicals without the approval of the Council.

(3) A health facility or higher education institution that contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units.

42. (1) A health education institution or health facility that intends to be used as a practical training site shall apply to the Council for accreditation in the prescribed manner and form on payment of a prescribed fee.

Regulations
on education
and training
and
continuing
professional
development

Prohibition
of use of
practical
training site
without
accreditation
or approval

Application
for
accreditation
as practical
training site

	(2) The Council shall, on receipt of an application under subsection (1), direct an inspector to inspect the health facility intended to be used as a practical training site in order to determine whether the site meets the prescribed requirements for accreditation.	5
	(3) The Council shall, within thirty days of the inspection referred to in subsection (2), grant or reject the application.	
	(4) The Council shall, where it rejects an application under this section, inform the applicant in writing, of the rejection and the reasons for the rejection.	10
Grant of accreditation	43. The Council shall, where a health facility intended to be used as a practical training site meets the requirements for accreditation, accredit the health facility as a practical training site for a period of three years and issue to the health facility a certificate of accreditation in the prescribed form.	15
Display of certificate of accreditation	44. A holder of a certificate of accreditation shall display the certificate of accreditation in a conspicuous place at the practical training site.	
Renewal of accreditation	45. (1) An accreditation may be renewed after three years. (2) The Council may require reporting of data, including quality assurance information, as a condition for the renewal of accreditation. (3) The Council may cause inspections to be carried out at the practical training site to confirm compliance with accreditation requirements from time to time.	25
Suspension and revocation of accreditation Act No. 24 of 2009 Cap 295	46. (1) The Council shall revoke the accreditation of a health facility as a practical training site if the health facility— (a) breaches a requirement or condition of the accreditation; (b) is closed or has its licence cancelled under the Health Professions Act, 2009; (c) contravenes the provisions of the Public Health Act or any other relevant written law; or (d) obtained the accreditation through fraud or misrepresentation or concealment of a material fact. (2) The Council shall, before revoking an accreditation under this section, give the health facility an opportunity to be heard in the prescribed manner. (3) The Council may, before revoking an accreditation, suspend the use of the health facility as a practical training site for a period and on conditions the Council may determine.	30 35 40
Indexing of students	47. (1) A higher education institution shall, within forty-five days of enrolling a student in a training programme, submit that student's details to the Council for indexing in the prescribed manner and form on payment of a prescribed fee.	

- (2) The Council shall index a student referred to in subsection (1) if—
- (a) the student meets the minimum academic requirements, prescribed by the Council, for enrollment in an education and training programme; and
- (b) the training programme in which the student is enrolled is approved by the Council.
- (3) A higher education institution that contravenes subsection (1) commits an offence.
- 10 **48.** (1) The Minister shall, on the recommendation of the Board, and in consultation with the Higher Education Authority and Zambia Qualifications Authority prescribe the qualifications obtained in respect of such levels of the training programme as the Council may specify. Prescription of qualifications and issue of certificates
- 15 (2) The Council shall issue an applicable certificate to a person who completes, and passes, the competence examinations for a specified level of the training programme.
- (3) The Council shall, where a nurse's or midwife's certificate issued under this section is lost or destroyed, on the application of that nurse or midwife and payment of a prescribed fee, issue to the nurse or midwife a duplicate certificate.
- 20 **49.** (1) A person commits an offence if that person— Offences relating to training of nurses and midwives
- (a) employs a nursing or midwifery tutor, lecturer or clinical instructor who is not registered in accordance with this Act or any other relevant written law;
- (b) contravenes any standards or guidelines for the education or training of nurses or midwives;
- (c) obtains a qualification under this Part by fraud or deliberate or negligent misrepresentation of material facts; or
- 30 (d) contravenes any provisions of this Act or any other written law.
- (2) A person who is convicted of an offence under subsection (1) is liable, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to
- 35 both.

PART VI

SCOPE OF NURSING AND MIDWIFERY PRACTICE

- 40 **50.** (1) A nurse or midwife shall provide promotive, preventive, therapeutic, palliative and rehabilitative care and treatment of illness normally carried out in nursing and midwifery practice in a nursing or midwifery facility, a school, home, health facility, community and any other place where the services would be required as guided by the scope of practice for each category of nurses and midwives. Scope of nursing and midwifery practice

(2) The Minister may prescribe the scope of practice of a nurse or midwife in the administration of nursing and midwifery care.

Act No. 3 of
2013

(3) The Minister may, in consultation with the Board, for the purposes of the Medicines and Allied Substances Act, 2013, by statutory instrument, designate a nurse or midwife as an authorised prescriber and issue a list of medicines and allied substances that a nurse or midwife may prescribe for patients or clients, including the conditions under which a nurse or midwife may prescribe those medicines and allied substances. 5 10

(4) The Minister on the recommendation of the Council, may vary the scope of practice with regard to medical and surgical procedures to be carried out by nurses and midwives.

Prohibition
of
prescription
of listed
medicine and
allied
substances
without
certificate of
competence
Act No. 3 of
2013

51. (1) Subject to the Medicines and Allied Substances Act, 2013, a nurse or midwife shall not prescribe a listed medicine and allied substances without a certificate of competence to prescribe that medicine and allied substance. 15

(2) A nurse or midwife who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both. 20

Certificate of
competence
to prescribe
listed
medicines
and allied
substances
Act No. 3 of
2013

52. (1) Subject to the Medicines and Allied Substances Act, 2013, a nurse or midwife who wishes to be permitted prescribe a listed medicines and allied substances not listed shall undergo and complete a course, approved by the Council, in prescribing unlisted medicines and substances. 25

(2) The Council shall issue to a nurse or midwife who undergoes and completes a course referred to in subsection (1) a certificate of competence to prescribe in listed medicine and allied substance in the prescribed manner and form on payment of a prescribed fee. 30

PART VII

LICENSING OF NURSING AND MIDWIFERY FACILITIES

53. (1) A person shall not operate a nursing or midwifery facility without a licence issued in accordance with the provisions of this Act. Prohibition of operating nursing or midwifery facility without licence
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.
54. (1) A person who intends to operate a nursing or midwifery facility shall apply to the Council for a licence in the prescribed manner and form on payment of a prescribed fee. Application for licence
- (2) The Council shall, within ninety days of receipt of an application, under subsection (1) grant or reject the application.
55. (3) The Council shall, where the Council rejects an application under this section, inform the applicant in writing of the rejection and the reasons for the rejection. Grant of licence
- (1) The Council shall, where an application meets the requirements of this Act, grant the application and issue to the applicant a licence to operate a nursing or midwifery facility.
- (2) A licence shall be issued on conditions the Minister may, on the recommendation of the Board, prescribe.
- (3) A licence granted under this section is valid for twelve months.
56. A holder of a licence shall display the licence in a conspicuous place at the nursing or midwifery facility. Display of licence
57. A licence shall not be transferred to a third party without the prior approval of the Council. Transfer of licence
58. The Council may amend a licence where— Amendment of licence
- (a) some other person has succeeded to the interest in the nursing or midwifery facility belonging to the holder of the licence, by substituting the name of the holder with the name of the successor; or
- (b) the name of the nursing or midwifery facility has changed, by substituting the name so changed.
59. (1) A nursing or midwifery facility whose licence is destroyed or lost shall apply to the Registrar for a duplicate licence in the prescribed manner and form on payment of a prescribed fee. Duplicate licence
- (2) The Registrar may, on receipt of an application under subsection (1), issue to the applicant a duplicate licence in the prescribed form.

Renewal of licence	<p>60. (1) A nursing or midwifery facility shall apply for renewal of its licence annually in the prescribed manner and form on payment of a prescribed fee.</p> <p>(2) The Council shall renew a licence if the applicant nursing or midwifery facility remains in compliance with the conditions of the licence.</p>
Surrender of licence on discontinued operation of nursing or midwifery facility	<p>61. Where a holder of a licence decides not to continue operating the nursing or midwifery facility to which the licence relates, the holder shall surrender the licence to the Council.</p>
Suspension or revocation of licence	<p>62. (1) Subject to the other provisions of this Act, the Council may suspend or revoke a licence if—</p> <p>(a) the holder of the licence obtained the licence through fraud, or misrepresentation or concealment of a material fact; or</p> <p>(b) the holder of the licence contravenes this Act or any condition of the licence.</p> <p>(2) The Council shall, before suspending or revoking a licence in accordance with subsection (1), give written notice to the holder of the licence of the Council's intention to suspend or revoke the licence.</p> <p>(3) The notice referred to in subsection (2) shall state the reasons for the intended suspension or revocation of the licence and require the holder of the licence to show cause, within a period of not more than thirty days, why the licence should not be suspended or revoked.</p> <p>(4) The Council shall not suspend or revoke a licence under this section if the holder of the licence takes remedial measures to the satisfaction of the Council within the period of thirty days referred to in subsection (3).</p> <p>(5) The Council may, if the holder of a licence who is notified in accordance with subsection (2) and (3) fails to show cause to the satisfaction of the Council, or does not take any remedial measures to the satisfaction of the Council, within the time specified in that subsection, suspend or revoke the licence, and issue the holder of the licence with an order to that effect.</p> <p>(6) The Council shall, where the Council revokes a licence under subsection (5), publish the order of revocation in the <i>Gazette</i> and a newspaper of daily circulation in Zambia.</p> <p>(7) A nursing or midwifery facility shall, where the proprietor or person in charge of the nursing or midwifery facility receives a copy of an order under subsection (5)—</p> <p>(a) stop taking new patients or clients; and</p>

(b) close the nursing or midwifery facility within fourteen days of receiving the order.

(8) Despite the other provisions of this section, the Council may, where the Council finds that the continued operation of a nursing or midwifery facility presents a clear and present danger of imminent harm to patients or clients, order the closure of the nursing or midwifery facility.

63. The Council shall publish annually a list of licensed nursing and midwifery facilities showing their location, in a manner and form that the Board may direct.

Publication of licensed nursing and midwifery facilities

64. (1) A person commits an offence if that person—

(a) contravenes any standards, procedures or guidelines for nursing or midwifery facilities issued by the Council;

(b) being a holder of a licence under this Part, breaches any conditions of the licence;

(c) performs an act or omits to act, thereby endangering public health or the lives of persons receiving health care services at a nursing or midwifery facility;

(d) without a licence, operates a nursing or midwifery facility, practises as, or holds out a nursing or midwifery facility as, licensed under this Act;

(e) engages or employs persons who are not qualified or registered under this Act at a nursing or midwifery facility; or

(g) contravenes any provisions of this Act or any other written law.

Offences relating to nursing and midwifery facilities

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding nine hundred thousand penalty units or to imprisonment for a period not exceeding nine years, or to both and where the offence is of a continuing nature, to a fine not exceeding fifty thousand penalty units for each day during which the offence continues.

PART VIII

DISCIPLINARY MATTERS

65. The Council shall develop and publish a Code of Ethics which shall bind nurses and midwives regulated under this Act.

Code of Ethics

66. A nurse or midwife commits professional misconduct if that nurse or midwife—

Professional misconduct

(a) contravenes the provisions of this Act;

(b) engages in conduct that is dishonest, fraudulent or deceitful;

- (c) unlawfully discloses or uses the nurse or midwife's advantage any information acquired in the nurse or midwife's practice;
- (d) commits an offence under this Act or any other law and is sentenced to imprisonment for a period exceeding six months without the option of a fine;
- (e) engages in any conduct that is—
- (i) prejudicial to the nursing or midwifery profession; or
 - (ii) likely to bring the nursing or midwifery profession into disrepute; or
- (f) breaches the Code of Ethics, or encourages or incites another nurse or midwife to breach the Code of Ethics.

Initiation of disciplinary action

67. (1) A person may lodge a complaint with the Council against a nurse or midwife where the person alleges that the nurse or midwife has contravened the code of ethics or any provisions of this Act. 15

(2) The Council may initiate disciplinary action under this section where the Council has reasonable grounds to believe that a nurse or midwife has contravened the code of ethics or any provision of this Act. 20

(3) A complaint or allegation shall be made to the Registrar in the prescribed manner and form.

Professional Conduct Committee

68. (1) The Board shall constitute a Professional Conduct Committee for each province and progressively each district consisting of the following part-time members: 25

- (a) not more five members who are registered as nurses or midwives; and
- (b) a legal practitioner.

(2) The members shall elect the chairperson and vicechairperson among the persons in subsection (1)(a). 30

(3) A person shall not be appointed as a member of the Professional Conduct Committee if that person—

- (a) has been found guilty of professional misconduct;
- (b) is an undischarged bankrupt; 35
- (c) is legally disqualified; or
- (d) has been convicted of an offence under any other law and sentenced to imprisonment for a period exceeding six months without the option of a fine.

(4) A member of the Professional Conduct Committee shall hold office for a term of three years and may be appointed for a further and final term of three years. 40

69. Except as otherwise expressly stated, before any matters are referred to the Disciplinary Committee the Council shall in the prescribed manner refer the matter for investigation by the Professional Conduct Committee. Reference of matters to Professional Conduct Committee
- 5 70. (1) Where a case has been referred to a Professional Conduct Committee, that committee shall, as prescribed, consider the case and, subject to the provisions of this section, determine either— Functions of Professional Conduct Committee in relation to complaint or information
- 10 (a) that no inquiry shall be held in the case by the Disciplinary Committee; or
- (b) that the matter in question shall, in whole or in part, be referred to the Disciplinary Committee for inquiry.
- (2) Where the Professional Conduct Committee determines that no inquiry shall be held in a case by the Disciplinary Committee, 15 the registrar shall inform the complainant, if any, and the nurse or midwife of the decision of the Professional Conduct Committee in such terms as the Professional Conduct Committee may direct.
- (3) The Professional Conduct before coming to a determination, if it considers just, cause to be made such further 20 investigations, or obtain such advice or assistance from any person, as it may consider necessary.
- (4) Where a Professional Conduct Committee determines that investigations are necessary, or where at the time when a Professional Conduct Committee is considering the case no 25 explanation has yet been received from the nurse or midwife, the Professional Conduct Committee may, make a provisional determination that the matter in question shall in whole or in part be referred to the Disciplinary Committee and where it makes such a determination
- 30 (a) the Chairperson may, after causing the members of the Professional Conduct Committee to be informed of the result of the further investigations or to be supplied with copies of any explanation subsequently furnished by the nurse or midwife, and after consultation with the 35 members of the Professional Conduct Committee and in accordance with the opinion of the majority of them, direct either that no inquiry shall be held or that the matter shall be referred as to the Disciplinary Committee;
- 40 (b) if the Chairperson directs that no inquiry shall be held, the Registrar or any other person authorised by the Registrar in that behalf shall notify the members of the Professional Conduct Committee and shall inform the complainant, if any, and the nurse or midwife in such terms as the Chairperson may direct.

Sanctions for professional misconduct by Professional Conduct Committee	<p>71. The Professional Conduct Committee may, where the Professional Conduct Committee finds a nurse or midwife guilty of professional misconduct—</p> <p>(a) council, mentor or censure the nurse or midwife;</p> <p>(b) caution the nurse or midwife;</p> <p>(c) impose an administrative penalty, not exceeding fifty thousand penalty units, to be paid to the Council;</p> <p>(d) order the nurse or midwife to pay to the Council or to any other party to the hearing any costs of, or incidental to, the proceedings;</p> <p>(f) order that the nurse or midwife be re-trained or rehabilitated; or</p> <p>(g) suspend the nurse or midwife.</p>	<p>5</p> <p>10</p>
Disciplinary Committee	<p>72. (1) The Board shall constitute a Disciplinary Committee consisting of the part-time following members:</p> <p>(a) a chairperson;</p> <p>(b) a vicechairperson;</p> <p>(c) the Chairperson; and</p> <p>(d) four nurses and midwives who hold a valid practising certificate appointed from—</p> <p style="padding-left: 20px;">(i) the public sector; and</p> <p style="padding-left: 20px;">(ii) the private sector.</p> <p>(2) The chairperson and vicechairperson shall be legal practitioners with not less than five years experience as legal practitioners.</p> <p>(3) A person shall not be appointed as a member of the Disciplinary Committee if that person</p> <p>(a) has been found guilty of professional misconduct;</p> <p>(b) is an undischarged bankrupt;</p> <p>(c) is legally disqualified; or</p> <p>(d) has been convicted of an offence under any other law and sentenced to imprisonment for a period exceeding six months without the option of a fine.</p> <p>(4) A member of the Disciplinary Committee shall hold office for a term three years and may be appointed for a further and final term of three years.</p>	<p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>
Functions of Disciplinary Committee	<p>73. (1) The functions of the Disciplinary Committee are to hear and determine—</p> <p>(a) any complaint referred to the Disciplinary Committee by the Professional Conduct Committee against a nurse or midwife under section 67 (1); or</p> <p>(b) any disciplinary action initiated by the Council against a nurse or midwife under section 67 (2).</p>	<p>40</p>

(2) The Disciplinary Committee may publicise, as the Disciplinary Committee considers appropriate, the facts relating to a nurse or midwife who is found guilty of, and punished for, professional misconduct.

5 **74.** (1) The chairperson of the Disciplinary Committee or, in the absence of the chairperson, the vice-chairperson of the Disciplinary Committee, shall preside at a sitting or meeting of the Disciplinary Committee.

Proceedings
of
Disciplinary
Committee

10 (2) Three members of the Disciplinary Committee shall form a quorum at a meeting or sitting of the Disciplinary Committee.

(3) Any question at a sitting or meeting of the Disciplinary Committee shall be decided by a majority of the votes of the members of the Disciplinary Committee at the sitting or meeting and, in the event of an equality of votes, the person presiding at the
15 sitting or meeting shall have a casting vote in addition to that person's deliberative vote.

(4) The Disciplinary Committee shall conduct its proceedings in camera.

20 (5) The Disciplinary Committee shall cause to be kept a record of its proceedings.

(6) A party to a hearing before the Disciplinary Committee may appear in person, be represented by a legal practitioner or, if the party so elects, by any other person.

25 (7) A decision of the Disciplinary Committee shall be in the form of a reasoned judgment and a copy of the judgment shall be supplied to each party to the proceedings and to every person affected by the decision.

30 (8) A person who is present at a sitting or meeting of the Disciplinary Committee at which any matter is the subject of consideration, and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity, that person shall, as soon as is practicable after the commencement of the sitting or meeting, disclose the interest and shall not, unless the Disciplinary Committee otherwise directs,
35 take part in any consideration or discussion of, or vote on, any question relating to that matter.

(9) A disclosure of interest made under this section shall be recorded in the minutes of the meeting or sitting at which the disclosure of interest is made.

40 **75.** (1) The Disciplinary Committee may, for the purposes of any hearing, hear and receive evidence and may, under the hand of the chairperson of the Disciplinary Committee or the Registrar, summon witnesses and require the production of any book, record, document or anything required for the purposes of the hearing and
45 may, through the chairperson or vice chairperson of the Disciplinary Committee, administer an oath to any witness.

Powers of
Disciplinary
Committee
at a hearing

- (2) A person summoned to attend before the Disciplinary Committee shall not—
- (a) without valid reasons, refuse or fail to attend at the time and place specified in the summons;
 - (b) having attended— 5
 - (i) leave without the permission of the Disciplinary Committee; or
 - (ii) refuse to be sworn or to affirm;
 - (c) without lawful excuse, refuse to answer fully and satisfactorily to the best of that person's knowledge and belief, any question lawfully put to that person; or 10
 - (d) refuse to produce any book, record, document or thing which that person is required by summons to produce.
- (3) A person who contravenes subsection (2) commits an offence and is liable, on conviction, for every such refusal or failure, 15 to a fine not exceeding twenty thousand penalty units.
- (4) A person shall not be compelled to answer any question or produce any book, record or document which that person would not be compelled to answer or produce on the trial of an action in the High Court. 20
- (5) A hearing before the Disciplinary Committee is, for all purposes and in particular for the purposes of Chapter XI of the Penal Code, deemed to be a judicial proceeding. 25
- (6) In any hearing before the Disciplinary Committee, a finding of fact which is shown to have been made by a court in Zambia shall be conclusive evidence of the fact so found.
- (7) The Disciplinary Committee shall, where the Disciplinary Committee has reasonable grounds to believe that a nurse or midwife is legally disqualified, refer the matter for determination in accordance with the Mental Health Act, 2019. 30
- (8) The Disciplinary Committee shall, where a determination is made in accordance with the Mental Health Act, 2019, that a nurse or midwife is legally disqualified, suspend the practising certificate of the nurse or midwife.
- (9) The Disciplinary Committee shall, where the Disciplinary Committee finds a nurse or midwife not guilty of professional misconduct, record a finding that the nurse or midwife is not guilty of misconduct in respect of matters to which the complaint or disciplinary process relates. 35
- (10) The Disciplinary Committee may, for the purpose of any proceedings, use such assessors or experts as the Disciplinary Committee considers necessary. 40

Cap. 87

Act No. 6 of 2019

Act No.6 of 2019

- 76.** The Disciplinary Committee may, where the Disciplinary Committee finds a nurse or midwife guilty of professional misconduct—
- 5 (a) order the cancellation of the nurse’s or midwife’s certificate of registration or practising certificate;
- (b) censure the nurse or midwife;
- 10 (c) caution the nurse or midwife, or suspend the enforcement of the punishment for a period not exceeding one year on security of good behaviour and conduct during that period;
- (d) impose an administrative penalty, not exceeding fifty thousand penalty units, to be paid to the Council;
- 15 (e) order the nurse or midwife to pay to the Council or to any other party to the hearing any costs of, or incidental to, the proceedings;
- (f) order that the nurse or midwife be re-trained or rehabilitated; or
- 20 (g) impose any reasonable conditions for the suspension, for a period not exceeding one year, of the nurse’s or midwife’s certificate of registration or practising certificate.
- 77.** The Disciplinary Committee shall, as soon as practicable after the completion of each hearing, submit to the Board a report of the proceedings together with a copy of the record of
- 25 proceedings.
- 78.** (1) The Chief Justice may, by statutory instrument, make rules regulating appeals to the High Court under this Part.
- (2) The Chief Justice may, by statutory instrument, on the recommendation of the Council, make rules relating to—
- 30 (a) the manner and form of lodging of complaints under this Part;
- (b) the mode of summoning persons before the Disciplinary Committee;
- 35 (c) the form and manner of service of summons requiring the attendance of a witness before the Disciplinary Committee and the production of any book, record, document or thing;
- (d) the procedure to be followed and rules of evidence to be observed in proceedings before the Disciplinary Committee; and
- 40 (e) the functions of assessors and experts to the Disciplinary Committee.
- (3) Rules made under subsection (2) may, in particular, provide —

Sanctions for professional misconduct by Disciplinary Committee

Reports by Disciplinary Committee

Rules by Chief Justice

- (a) that before matters are referred to the Disciplinary Committee, the matters shall, in such manner as may be provided by the rules, have been brought before and investigated by the Council in this respect;
- (b) for securing notices for the proceedings and specifying the time and manner of the proceedings; and
- (c) for securing that any party to the proceedings shall, if that person requires, be entitled to be heard by the Disciplinary Committee.

PART IX 10

GENERAL PROVISIONS

- Registers **79.** (1) The Council shall keep registers of—
- (a) fully registered nurses and midwives;
- (b) provisionally registered nurses and midwives;
- (c) temporarily registered nurses and midwives; 15
- (d) specialists;
- (e) indexed students;
- (f) holders of qualifications and certificates corresponding to such qualifications issued under this Act;
- (g) higher education institutions whose training programmes are approved by the Council; and 20
- (h) licensed nursing and midwifery facilities.
- (2) The registers referred to in subsection (1) shall contain such particulars as may be prescribed.
- (3) The registers shall be kept by the Registrar at the offices of the Council, and shall be open for inspection by members of the public during office hours on payment of such fee as the Council may determine. 25
- (4) The Registrar may, on application by any person, issue to the person a certified extract from the applicable register or a copy of a certificate issued to a nurse or midwife in accordance with this Act, on payment of such fee as the Council may determine. 30
- Publication of copies of registers **80.** (1) The Registrar shall, on the direction of the Board, cause copies of any of the registers, including alterations and additions to such registers, to be published in a manner and form that the Board may direct. 35
- (2) Subject to the other provisions of this Act, a copy of the last published register shall be *prima facie* evidence in legal proceedings, of the registration of any person, except that a certified copy of an extract of the register is admissible as proof of registration unless the contrary is proved. 40

(3) Where a person is registered, and the name of that person is deleted from the register, after the date of publication of the register, a copy of the entries in the register relating to such person, certified by the Registrar, is evidence that such person is registered but was deleted from the register.

81. (1) A person who is aggrieved by a decision of the Council may, within thirty days of the receipt of the decision, appeal to the Minister against the decision.

Appeal

(2) The Minister shall, within thirty days of receipt of an appeal under subsection (1), determine the appeal and inform the appellant, in writing, of the Minister's determination.

(3) A person aggrieved by a decision of the Minister under this section may, within thirty days of receipt of the decision, appeal to the High Court.

(4) Despite subsection (1) a person aggrieved by a decision of the Disciplinary Committee may appeal to the High Court within thirty days of the decision.

(5) The Council shall be the respondent on any appeal under subsection (4).

(6) A decision of the Disciplinary Committee shall not take effect until the expiration of the time for lodging an appeal against the decision or, if an appeal is lodged, until the time the appeal is disposed of, withdrawn or struck out for want of prosecution, as the case may be.

(8) The proceedings of the Disciplinary Committee shall not be set aside by reason only of some irregularity in those proceedings if such irregularity did not occasion a substantial miscarriage of justice.

82. (1) A court shall have jurisdiction over a nurse or midwife for any act committed outside Zambia which, if it had been committed in Zambia, would have been an offence or professional misconduct under this Act.

Jurisdiction over acts committed outside Zambia

(2) Any proceedings against a nurse or midwife under this section which would be a bar to subsequent proceedings against the nurse or midwife for the same offence, if the offence had been committed in Zambia, shall be a bar to further proceedings against the nurse or midwife under any written law relating to the extradition of persons, in respect of the same offence outside Zambia.

(3) The Mutual Legal Assistance in Criminal Matters Act applies to proceedings under this Act.

Prohibition of publication or disclosure of information to unauthorised persons	<p>83. (1) A person shall not, without the consent in writing given by, or on behalf of, the Council, publish or disclose to an unauthorised person, other than in the course of duties of that person, the contents of a document, communication, or information whatsoever, which relates to or which has come to the knowledge of that person in the course of that person's duties under this Act. 5</p> <p>(2) A person shall not, having information which to the knowledge of that person has been published or disclosed in contravention of subsection (1), unlawfully publish or communicate the information to another person. 10</p> <p>(3) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.</p>
Offences by principal officers of bodies corporate and unincorporate bodies	<p>84. Where an offence under this Act is committed by a body corporate or unincorporate body, with the knowledge, consent or connivance of the director, manager, shareholder or partner of the body corporate or unincorporate body, that director, manager, shareholder or partner commits the same offence as the body corporate or body unincorporate and is liable, on conviction, to the penalty specified for that offence. 20</p>
General penalty	<p>85. A person convicted of an offence under this Act for which a penalty is not specified is liable to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both. 25</p>
Administrative penalty	<p>86. (1) The Council may impose an administrative penalty on a person for a failure to comply with a provision of this Act which is not an offence.</p> <p>(2) An administrative penalty shall not exceed the amount prescribed by the Minister for each day during which such failure continues. 30</p> <p>(3) An administrative penalty is payable to the Council within the period specified by the Council.</p> <p>(4) If any person fails to pay an administrative penalty, within the period specified in subsection (3), the Council may, by way of civil action in a competent court, recover the amount of the administrative penalty from that person as an amount due and owing to the Council. 35</p>
Immunity	<p>87. An action or other proceeding shall not lie or be instituted against a member, a member of a committee, a member of the Disciplinary Committee or a member of staff of the Council for, or in respect of, any act or thing done or omitted to be done in good faith purported in the exercise or performance, of a power or function conferred by or under this Act. 40</p>

88. (1) The Council may, in the performance of its functions under this Act, issue guidelines that are necessary for the better carrying out of the provisions of this Act. Guidelines
- (2) The Council shall publish the guidelines issued under this Act in the *Gazette* and in a daily newspaper of general circulation in Zambia, and the guidelines shall not take effect until they are so published.
- (3) The guidelines issued by the Council under this Act shall bind all persons regulated under this Act.
89. (1) The Minister, on the recommendation of the Board, may by statutory instrument, make regulations prescribing matters which by this Act are required or permitted to be prescribed. Regulations
- (2) Without limiting the generality of subsection (1), regulations under that subsection may make provision for—
- (a) the requirements to be fulfilled by any person before a qualification and corresponding certificate is issued;
- (b) the qualifications and age of any person to be admitted to a nursing or midwifery training programme;
- (c) the qualifications of the nurses and midwifery training faculty of a higher education institution;
- (d) the course content of a training programme;
- (e) the supervision of students;
- (f) the setting and conduct of competence examinations;
- (g) the appointment and remuneration of examiners, moderators and invigilators;
- (h) preparation and conduct of students and provisionally registered assessments;
- (i) the entry and disqualification of candidates for competence examinations;
- (j) the publication of results of competence examinations;
- (k) the conditions under which a person shall be entered on any register including the requisite education and training;
- (l) the classification of the nurses or midwives registered under this Act;
- (m) the type of protective clothing, uniforms, badges and accessories to be worn or used by nurses, midwives and students;
- (n) accreditation of practical training sites; and
- (o) generally the carrying into effect the purposes of this Act.
90. (1) The Nurses and Midwives Act, 1997, is repealed. Repeal of Act No. 31 of 1997, and savings and transitional provisions
- (2) Despite subsection (1), the Second Schedule applies to matters specified in that Schedule.

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- (3) Despite subsection (1)—
- (a) a person who immediately before the commencement of this Act held office as a member of the former Council shall hold office as a member of the Board for a period of three months after which the Minister shall appoint the members of the Board in accordance with the provisions of this Act; 5
 - (b) a person who immediately before the commencement of this Act held office as a member of the Professional Conduct Committee shall hold office as member of the Disciplinary Committee for a period of three months after which the Board shall constitute the Disciplinary Committee in accordance with the provisions of this Act; 10
 - (c) a private nursing institution registered under the repealed Act shall continue operating for a period of one year within which the private nursing college shall apply for approval of its training programme in accordance with the provisions of this Act; 15
 - (d) a public nursing institution shall, within one year of the commencement of this Act, apply for the approval of its training programme in accordance with the provisions of this Act; 20
 - (e) a nursing home or agency registered under the repealed Act shall continue operating for operating for a period of one year within which the nursing home or agency shall apply for a licence in accordance with the provisions of this Act; 25
 - (f) a holder of a certificate of temporary registration shall within one year of the commencement of this Act apply for a certificate of provisional registration in accordance with the provisions of this Act. 30

FIRST SCHEDULE

(Section 3(3))

THE NURSING AND MIDWIFERY COUNCIL OF ZAMBIA

PART I

5

ADMINISTRATION OF COUNCIL

1. (1) The seal of the Council shall be a device that the Board may determine and shall be kept by the Registrar.

Seal of Council

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Registrar or any other person the Board may authorise for that purpose.

(3) A contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Council by the Registrar or any other person the Board may authorise, generally or specifically, for that purpose.

(4) A document purporting to be a document under the seal of the Council or issued on behalf of the Council shall be received in evidence and shall be considered to be so executed or issued, without further proof, unless the contrary is proved.

2. (1) Subject to the other provisions of this Act, a member shall hold office for a period of three years and may be reappointed for one further period of three years.

Tenure of office and vacancy

(2) A member may resign on giving one month's notice, in writing, to the Minister.

(3) The office of a member becomes vacant if the member -

(a) is absent, without reasonable excuse, from three consecutive meetings of the Board of which the member has had notice;

(b) is adjudged bankrupt;

(c) becomes legally disqualified;

(d) is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a period exceeding six months;

(e) ceases to hold the office by virtue of which the member was appointed;

(f) ceases to be a representative, or holder of an office in or member, of the institution which nominated the member;

(g) is found guilty of professional misconduct;

(h) is removed by the Minister for good cause;

(i) resigns; or

(j) dies.

(4) A member shall, on the expiration of the period for which the member is appointed, continue to hold office until a successor has been appointed, but in no case shall the further period exceed four months.

(5) The Minister may, where the office of a member becomes vacant before the expiry of that member's term of office, appoint another person to be a member in place of the member whose office becomes vacant but that other member shall hold office only for the unexpired term of that office.

Proceedings
of
Board

3. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.

(2) The Board shall meet for the transaction of business at least once every three months at such places and times as the Board may determine.

(3) A meeting of the Board may be called by the Chairperson on giving notice of not less than fourteen days, and shall be called by the Chairperson if not less than onethird of the members so request in writing, except that if the urgency of a particular matter does not permit the giving of the notice, a special meeting may be called on giving a shorter notice.

(4) Five members shall constitute a quorum at a meeting of the Board.

(5) There shall preside at a meeting of the Board—

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson; and

(c) in the absence of the Chairperson and the Vice-Chairperson, such other member as the members present may elect for the purpose of that meeting.

(6) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to that person's deliberative vote.

(7) The Board may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of the meeting of the Board, but that person shall not have a vote.

(8) A member who is for any reason unable to attend a meeting of the Board may, in writing, nominate another person from the same institution or organisation as the member to attend the meeting in that member's stead and that person shall be considered to be a member for the purpose of that meeting.

(9) The validity of any proceedings, acts or decisions of the Board shall not be affected by a vacancy in the membership of the Board or by a defect in the appointment of a member or by reason that a person not entitled to do so, took part in the proceedings.

4. (1) The Board may constitute committees that it considers necessary and delegate to the committees such of its functions as it considers appropriate. Committees
- (2) The Board may appoint, as members of a committee, persons who are or are not members of the Board, except that at least one member of a committee shall be a member of the Board.
- (3) A person serving as a member of a committee shall hold office for a period that the Board may determine.
- (4) Subject to any specific or general direction of the Board, a committee may regulate its own procedure.
5. The Council shall pay to a member, a member of a committee and a member of the Disciplinary Committee, allowances that the Emoluments Commission may, on the recommendation of the Minister, determine. Allowances
6. (1) A person who is present at a meeting of the Board or a committee at which any matter is the subject of consideration, and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity shall, as soon as is practicable after the commencement of the meeting, disclose that interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on any question relating to that matter. Disclosure of interest
- (2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

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PART II

FINANCIAL PROVISIONS

7. (1) The funds of the Council consist of monies that may— Funds of Council
- (a) be appropriated to the Council by Parliament for the purposes of the Council;
- 30 (b) be paid to the Council by way of fees, grants or donations; and
- (c) otherwise vest in or accrue to the Council.
- (2) The Council may, subject to the approval of the Minister—
- 35 (a) accept monies by way of grants or donations from any source within or outside Zambia; or
- (b) raise by way of loans or otherwise, monies that the Council may require for the performance of its functions.
- (3) There shall be paid from the funds of the Council—
- 40 (a) emoluments of the members of staff of the Council;
- (b) reasonable travelling and other allowances for members, members of a committee and members of the Disciplinary Committee when engaged in the business

	of the Council, at such rates as the Emoluments Commission may, on the recommendation of the Minister, determine; and	
	(c) any other expenses incurred by the Council in the performance of its functions.	5
	(4) The Council may, subject to the approval of the Minister, invest in a manner the Council considers appropriate, funds of the Council that the Council does not immediately require for the performance of the Council's functions.	
Financial year	8. The financial year of the Council shall be a period of twelve months ending on 31 st December in each year.	10
Accounts and audit	9. (1) The Council shall cause to be kept proper books of account and other records relating to its accounts.	
	(2) The Auditor General or an auditor appointed by the Auditor-General shall audit the accounts of the Council.	15
	(3) The Council shall pay the fees for an audit of the Council's accounts.	
Annual report	10. (1) The Council shall, as soon as is practicable but not later than ninety days after the end of a financial year, submit to the Minister a report concerning the Council's activities during that financial year.	20
	(2) The report referred to in subparagraph (1) shall include information on the financial affairs of the Council and there shall be appended to that report—	
	(a) an audited statement of financial position;	25
	(b) an audited statement of comprehensive income; and	
	(c) any other information that the Minister may require.	
	(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subparagraph (1), lay the report before the National Assembly.	30

SECOND SCHEDULE

(Section 90 (2))

SAVINGS AND TRANSITIONAL PROVISIONS

- 5 **1.** A nurse or midwife registered under the repealed Act shall continue to be registered as if registered under this Act. Nurses and midwives registered under repealed Act
- 2.** (1) For the avoidance of doubt, a person who, before the commencement of this Act, was an officer or employee of the former Council, shall continue to be an officer or employee of the Council, as the case may be, as if appointed or employed under this Staff of Council
- 10 Act.
- (2) The service of the persons referred to in subparagraph (1) shall be treated as continuous service.
- (3) Nothing in this Act affects the rights and liabilities of a person employed or appointed by the former Council before the Transfer of assets and liabilities
- 15 commencement of this Act.
- 3.** (1) On or after the commencement of this Act, there shall be transferred to, vest in and subsist against, the Council by virtue of this Act and without further assurance, the assets, rights, liabilities and obligations which immediately before the commencement of Transfer of assets and liabilities
- 20 this Act were the assets, rights, liabilities and obligations of the former Council.
- (2) Subject to subparagraph (1), every deed, bond or agreement, other than an agreement for personal service, to which the former Council was a party immediately before the commencement of Transfer of assets and liabilities
- 25 this Act whether or not of a nature that rights, liabilities and obligations could be assigned, shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as if -
- (a) the Council had been party to it;
- 30 (b) for any reference to the former Council there were substituted, with respect to anything required to be done on or after the commencement of this Act, a reference to the Council; or
- (c) for any reference to an officer of the former Council, not Transfer of assets and liabilities
- 35 being a party to it and beneficially interested, there were substituted, with respect to anything required to be done on or after the commencement of this Act, a reference to such officer of the Council as the Council shall designate.
- 40 (3) Where under this Act, any assets, rights, liabilities and obligations of the former Council are considered to be transferred to the Council in respect of which transfer a written law provides

for registration, the Council shall make an application, in writing, to the appropriate registration authority for registration of the transfer.

(4) The registration authority referred to in subparagraph (3) shall make such entries in the appropriate register as shall give effect to the transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse the deeds relating to the title, right or obligation concerned and registration fees or other duties shall not be payable in respect of the transaction. 5

Legal
proceedings

4. (1) Any legal proceedings or application of the former Council pending immediately before the commencement of this Act by or against the former Council may be continued by or against the Council. 10

(2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former Council, may be instituted by or against the Council. 15
