

NURSES ACT, 2008-3

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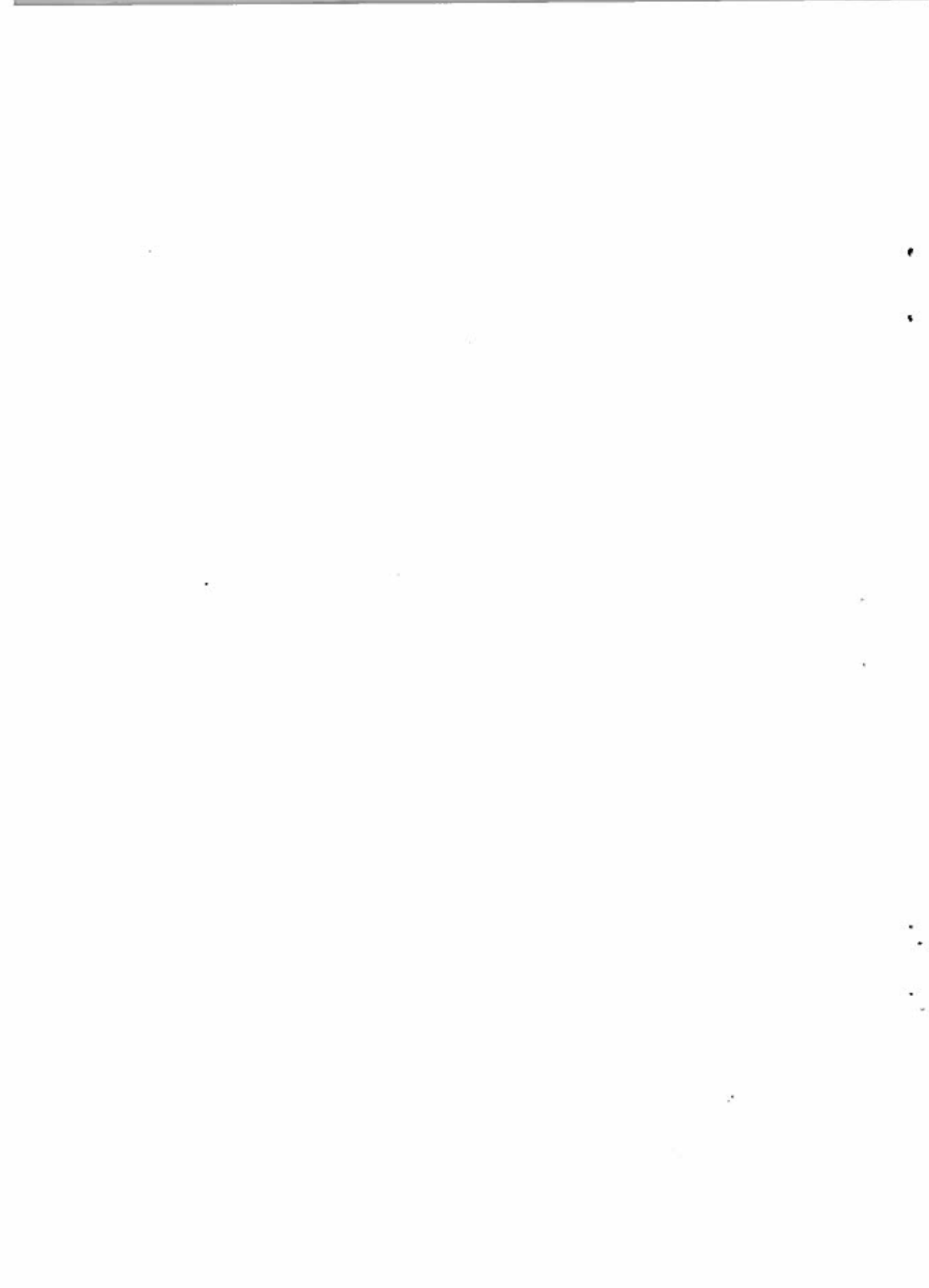
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BARBADOS

I assent
C. STRAUGHN HUSBANDS
Governor-General
28th May, 2008.

2008 - 3

An Act to repeal and replace the Nurses and Midwives (Registration) Act, Cap. 372, to make new provision for the registration, regulation and discipline of the nursing profession; and for related purposes.

(By Proclamation). Commence-
ment.

ENACTED by the Parliament of Barbados as follows:

1. This Act may be cited as the *Nurses Act, 2008*.

Short title.

Interpreta-
tion.

2. In this Act,

"Caribbean Community" means the Caribbean Community established by the Treaty;

"Council" means the Nursing Council of Barbados established by section 3;

"enrolment year" means the year in which enrolment fees are payable in accordance with this Act by persons enrolled under this Act;

"first registration fee" means the fee payable on first registration in accordance with this Act;

Cap. 372. "former Act" means the *Nurses and Midwives (Registration) Act*;

Cap. 372. "former Council" means the General Nursing Council established by the *Nurses and Midwives (Registration) Act*;

"graduate nurse" means a person referred to in section 10(2);

Cap. 371. "medical practitioner" has the same meaning as in section 2 of the *Medical Registration Act*;

"midwife" means a person whose name appears in that part of the Register of Nurses allocated for nurses qualified to practise midwifery;

"nurse" means a person whose name appears in the Register of Nurses;

"nursing assistant" means a person whose name appears on the Roll of Nursing Assistants;

"nursing auxiliary" means a person whose name appears on the Roll of Nursing Auxiliaries;

"nursing professional" means a nurse, a graduate nurse, a nursing assistant or a nursing auxiliary;

"Practising Certificate" means the appropriate certificate issued under this Act to a nursing professional to practise as a nurse, graduate nurse, midwife, nursing assistant or nursing auxiliary as the case may be;

"regional examination" means the examination, by whatever name called, required by states within the Caribbean Community for the registration of nurses;

"Register" means the register to be kept by the Registrar under this Act;

"Registrar" means the Registrar of the Council referred to in section 6;

"registration or enrolment period" means a period of 2 years;

"registration year" means the year in which registration fees are payable in accordance with this Act by persons registered under this Act;

"Roll" means the appropriate roll to be kept by the Registrar under this Act;

"Treaty" means the Revised Treaty of Chaguaramas establishing the Caribbean Community, including the CARICOM Single Market and Economy,

(a) that was signed in the Bahamas on 5th July, 2001; and

(b) to which Barbados is a party;

as amended by the Protocol signed at Paramaribo Suriname on 17th February, 2005.

The Nursing Council of Barbados

3. (1) There is hereby established a Council to be known as the Nursing Council of Barbados.

Nursing
Council.

(2) The Council is a body corporate to which section 21 of the *Interpretation Act* applies.

Cap. 1.

- Schedule. (3) The *Schedule* has effect with respect to the constitution of the Council and otherwise in relation thereto.
- Schedule. (4) The Minister may by order amend the *Schedule*.
- Council to report to and advise Minister. 4. The Council shall
- (a) as soon as practicable after the beginning of each year submit to the Minister a report of its activities during the preceding year; and
- (b) advise the Minister on matters relating to
- (i) the provision of nursing care for the sick and injured;
- (ii) the provision of midwifery services;
- (iii) the establishment of a suitable recruitment and training programme for the maintenance of nursing care and midwifery services; and
- (iv) the nursing profession, including the education and training of nurses.
- Functions of the Council. 5. The Council shall be responsible for
- (a) the regulation of the nursing profession;
- (b) the registration or enrolment of persons in the nursing profession;
- (c) the investigation of complaints and the discipline of persons in the nursing profession;
- (d) the setting of standards and guidelines for the governance of the nursing profession; and
- (e) the provision of professional advice to nursing professionals.

6. (1) There shall be a Registrar for the purposes of this Act. Registrar.

(2) The Registrar shall be responsible to the Council for the management of the Council.

Registration of Nurses

7. (1) A person who applies to the Council to be registered as a nurse and who satisfies the Council that that person Registration of nurses.

- (a) is qualified to be so registered;
- (b) is a fit and proper person to practise nursing in Barbados; and
- (c) is of the prescribed age,

is entitled upon compliance with the requirements of this Act and on payment of the first registration fee, to be registered as a nurse.

(2) A person is qualified to be registered as a nurse pursuant to subsection (1)(a), if that person

- (a) has completed the prescribed course of training at a place of training in Barbados or the Caribbean Community recognized by the Council;
- (b) has passed the required examinations in respect of the training referred to in paragraph (a); and
- (c) has successfully completed the regional examination required for registration as a nurse.

(3) A person other than a person referred to in subsection (2), is qualified to be registered as a nurse if that person

- (a) holds a diploma, an associate degree, a certificate or any other status or form of recognition granted in a place outside Barbados by a duly constituted body empowered by the law of that place to confer authority to practise nursing and which is recognized by the Council; and

(b) has successfully completed the regional examination required for registration as a nurse or such other examination as the Council considers necessary to establish that the applicant possesses satisfactory nursing training and experience.

(4) The Council may, with the approval of the Minister, recognize

(a) any hospital, school or institution as a place of training for the purposes of subsection (2);

(b) any diploma, certificate or any other status or form for the purposes of subsection (3).

(5) A person who is entitled to be registered as a general nurse pursuant to subsection (2) may apply to the Council to be registered as a midwife or a psychiatric nurse where that person has completed the prescribed training and holds the prescribed qualifications.

Temporary
registration.

8. The Registrar may temporarily register a person who desires to work in Barbados for a period not exceeding 3 months where that person

(a) applies to the Council for temporary registration;

(b) satisfies the Council that that person is temporarily in Barbados; and

(c) satisfies the Council that that person holds a diploma, an associate degree, a certificate or any other status or form of recognition

(i) granted in a place outside Barbados by a duly constituted body empowered by the law of that place to confer authority to practise nursing; and

(ii) recognized by the Council under section 7.

Register of
Nurses.

9. (1) The Registrar shall keep a Register of Nurses.

(2) The Register of Nurses shall contain the following particulars in respect of each registered nurse:

- (a) that person's full name and address;
- (b) the date of that person's registration;
- (c) a description and the date of the qualification in respect of which that person is registered.

(3) The Register of Nurses shall be divided or classified in a manner approved by the Council respecting nurses qualified to practise general nursing, community health nursing, public health nursing, midwifery, psychiatric nursing or such other branch of nursing as the Council determines.

*Enrolment of Graduate Nurses, Nursing Assistants
and Nursing Auxiliaries*

10. (1) Any person who applies to the Council to be enrolled as a graduate nurse, who satisfies the Council that that person

Enrolment
of graduate
nurses.

- (a) is qualified to be so enrolled;
- (b) is a fit and proper person to practise as a graduate nurse; and
- (c) is of the prescribed age,

is entitled, upon compliance with the requirements of this Act, and on payment of the enrolment fee, to be enrolled as a graduate nurse.

(2) For the purposes of subsection (1), a person is qualified to be enrolled as a graduate nurse if that person

- (a) has passed an examination in nursing after 3 years of study at a training institution recognized by the Council under section 7 but who has not successfully completed the regional examination required for registration as a nurse; or

(b) holds a qualification referred to in paragraph (a) of section 7(3) granted in a place outside Barbados if the qualification is recognized by the Council.

(3) A graduate nurse must work under the supervision of a registered nurse and may not hold that post for a period exceeding 18 months.

Enrolment
of nursing
assistants
and nursing
auxiliaries.

11. (1) A person who

(a) applies to the Council to be enrolled as a nursing assistant or nursing auxiliary; and

(b) satisfies the Council that that person

(i) is qualified to be so enrolled;

(ii) is a fit and proper person to practise as a nursing assistant or nursing auxiliary as the case may be; and

(iii) is of the prescribed age,

is entitled, upon compliance with the requirements of this Act, and on payment of the first registration fee, to be enrolled as a nursing assistant or nursing auxiliary.

(2) A person is qualified to be enrolled as a nursing assistant or nursing auxiliary pursuant to paragraph (a)(i) of subsection (1) if that person

(a) has completed a course of training approved by the Council;
and

(b) has passed an appropriate examination.

(3) Where a person has obtained training and qualifications at a place outside Barbados, that in the opinion of the Council are equivalent to the training and qualifications referred to in subsection (2), that person is qualified to be enrolled as a nursing assistant or nursing auxiliary.

(4) A nursing auxiliary shall not undertake any duty or carry out any procedure for which that auxiliary has not been trained.

12. (1) The Registrar shall keep a Roll of

- (a) Graduate Nurses;
- (b) Nursing Assistants; and
- (c) Nursing Auxiliaries.

Roll of graduate nurses, nursing assistants and nursing auxiliaries.

(2) The Roll of Graduate Nurses, Nursing Assistants and Nursing Auxiliaries shall contain the following particulars in respect of each enrolled graduate nurse, nursing assistant and nursing auxiliary:

- (a) the person's full name and address;
- (b) the date of the person's enrolment; and
- (c) a description of the qualification and the date of the qualification in respect of which the person is enrolled.

General Provisions with respect to Registration and Enrolment

13. (1) The Registrar shall, without delay and without the application of any person or the payment of any fee, enter in

- (a) the Register of Nurses, the appropriate particulars which were specified in the Nurses' Register and the Midwives' Register; and
- (b) the Roll of Nursing Assistants, the particulars which were specified in that Roll,

Registration of existing nursing professionals.

in respect of those persons who were registered or enrolled under the former Act immediately before the commencement of this Act.

(2) All persons who immediately before the commencement of this Act were registered or enrolled under the former Act shall be deemed to be validly registered or enrolled under this Act.

(3) Any person who immediately before the commencement of this Act was employed as a nursing auxiliary shall be entitled to be enrolled as such under this Act.

(4) For the purposes of subsection (3), "nursing auxiliary" means a person, by whatever name called, employed to perform the duties of a health aide.

Inspection
of Register.

14. The Registers and Rolls referred to in sections 9 and 12 shall at all reasonable times be made available for inspection by the Registrar.

Changes to
Register or
Roll.

15. (1) The Registrar shall

- (a) make the appropriate alterations in the Registers or Rolls where there is a change with respect to any of the particulars entered in any Register or Roll; or
- (b) remove from the Registers or Rolls the name of any person who is deceased or no longer qualified to practise in Barbados.

(2) A nursing professional who obtains a qualification approved by the Council as higher than or additional to that in respect of which that nursing professional is registered, is entitled without the payment of any fee to have such higher or additional qualification entered by the Registrar in the appropriate Register or Roll in substitution for, or in addition to, as the case may be, the qualification in respect of which that nursing professional is registered or enrolled.

Applications
for first
registration
or enrol-
ment.

16. (1) An application for first registration or enrolment shall be made in the form approved by the Council.

(2) An applicant for first registration or enrolment shall submit to the Registrar

- (a) evidence of that applicant's qualifications;
- (b) proof of that applicant's identity; and
- (c) any other information the Council requires for the purposes of registration.

17. (1) Where the Council registers or enrolls a person under this Act, the Council shall issue to that person a certificate of registration or enrolment. Certificate of registration or enrolment.

(2) Where the Council refuses to approve the registration or enrolment of any nursing professional, the Registrar shall immediately give written notice of that refusal to the person affected.

(3) A certificate of registration or enrolment issued under subsection (1) shall be in such form as the Council approves, and shall remain in force until it is suspended or cancelled by the Council.

18. (1) The Council shall, in respect of the first registration or enrolment of a nursing professional under this Act, issue to that person, on payment of the prescribed fee, a certificate to be called a Practising Certificate. First registration.

(2) A Practising Certificate issued under subsection (1) shall be valid until 31st January of the subsequent registration or enrolment year.

19. (1) A nursing professional who desires to practise as such in Barbados shall in the month of January in the registration or enrolment year, apply to the Council for a Practising Certificate, and the Council shall Practising Certificate.

- (a) on payment of the registration or enrolment fee; and
- (b) in the case of a nurse, on production of evidence that the nurse has undertaken continuing nursing education over the preceding 2 years,

issue to that nursing professional a Practising Certificate.

(2) Where a nursing professional applies to the Council for a Practising Certificate in a month other than January, the Council shall on payment of the additional sum imposed by section 20, issue to that nursing professional a Practising Certificate.

(3) Subject to section 18, a Practising Certificate is valid for a period of 2 years and expires on the 31st January of the subsequent registration or enrolment year.

(4) The registration or enrolment fee payable under this Act becomes due and payable no later than 31st January of the registration or enrolment year.

Cap. 373. (5) The *Profession, Trade and Business Registration Act* does not apply to nursing professionals who are regulated under this Act.

Penalty. 20. Any person required by this Act to pay the registration or enrolment fee who fails to pay that fee during the month of January in any registration or enrolment year shall, in respect of that person's registration or enrolment for that registration or enrolment period, pay to the Registrar, in addition to the fee payable under section 19, a sum equal to the fee.

Effect of failure to pay. 21. Any person who is required by section 19 to pay the registration or enrolment fee who fails to pay that fee after one month of the date that the fee becomes payable shall be treated as not being registered or enrolled for the purposes of this Act.

Exemption of public officers. 22. No fee shall be payable in respect of the registration or enrolment under this Act of any person who is employed on a full-time basis in the public service.

Publication of list. 23. (1) The Registrar shall publish in the *Official Gazette*

(a) in the month of February in every registration or enrolment year, an alphabetical list of persons who at 31st January in that year have been issued with Practising Certificates under this Act;

(b) as soon as is practicable, the name of any person who is issued with a Practising Certificate or who is registered or enrolled as a nursing professional subsequent to the publication of the list referred to in paragraph (a).

(2) A copy of the *Official Gazette* containing the list referred to in paragraph (a) of subsection (1) or the name of any person published pursuant to paragraph (b) of that subsection is *prima facie* evidence in any court of the registration or enrolment and qualification to practise of any person whose name is so published; and that list is *prima facie* evidence of the non-registration or non-qualification to practise of any person whose name is not shown in the list.

Examinations

24. (1) For the purposes of any examination required under this Act, the Council shall appoint an examination Committee, in this section referred to as the Committee, consisting of such persons as it thinks fit to set and conduct the examination in such subjects as the Council directs and to report its findings to the Council. Examina-
tions.

(2) The Council shall fix a time and place for holding the examination, and the Registrar shall notify a candidate of that time and place.

(3) A candidate shall pay to the Registrar such examination fee as may be determined by the Council with the approval of the Minister.

(4) If as a result of the examination the Committee finds that a candidate is sufficiently informed and skilled in the subjects in which that candidate is examined, the candidate shall be deemed, on the receipt by the Council of the report of those findings, to have satisfied the Council that that candidate is qualified to be registered under this Act.

(5) Where the Committee reports to the Council that a candidate is unsuccessful in the examination, the candidate shall not, unless the Board so recommends, be permitted to sit for any further examination until the expiration of 6 months from the date of the examination in which the candidate is unsuccessful.

(6) A candidate who is unsuccessful in an examination under this section, shall, before being permitted to sit for any further examination, comply with such conditions as the Council directs, including the payment to the Registrar of any further fee as may be determined by the Council with the approval of the Minister.

(7) Members of the Committee shall for each examination, receive such fees as may be determined by the Council with the approval of the Minister.

Discipline

Discipline
of nursing
profes-
sionals.

25. (1) A nursing professional who

- (a) is convicted of an offence outside Barbados which if committed in Barbados would be punishable on indictment,
- (b) is convicted in Barbados of an indictable offence; or
- (c) is suspected on reasonable grounds to have committed professional misconduct,

shall be subject to disciplinary proceedings.

(2) Where in any proceedings referred to in subsection (1), the Council is satisfied that a nursing professional is convicted of an offence under paragraph (a) or (b) of subsection (1) or that the nursing professional is guilty of professional misconduct, the Council may

- (a) censure that person;
- (b) suspend that person's registration or enrolment, as the case may be, for a period not exceeding one year,
- (c) direct the Registrar to remove that person's name from the Register or Roll, as the case may be.

(3) Where the Council takes any action pursuant to subsection (1), the Council shall notify the appropriate regulatory authority of each state within the Caribbean Community.

26. Where in the opinion of the Council it is expedient or dangerous or against the public interest, or not in the interest of the health of a patient that a nursing professional should continue to practise pending the institution of disciplinary proceedings, the Council may suspend the registration or the enrolment of that nursing professional, as the case may be.

Suspension
from
practice.

27. (1) Where the name of any person is removed from any Register or Roll, the Council may, in writing, require that person to return to the Council the certificate of registration or enrolment, as the case may be, issued to that person and that person shall comply with the requirement.

Removal of
name from
the Register
or Roll.

(2) Where a person's name is removed from or restored to the Register or Roll, the Registrar shall, as soon as practicable thereafter, publish a notice in the *Official Gazette* to that effect.

28. The Registrar shall immediately give written notice to the person affected by a decision of the Council under section 25(2) to

Notice to
be given to
person
affected by
decisions of
Council.

- (a) censure that person;
- (b) suspend that person's registration or enrolment; or
- (c) remove that person's name from the Register or Roll.

Appeals

29. (1) Subject to subsection (4), any person who is aggrieved by

Appeals.

- (a) a refusal of the Council to register or enroll that person under this Act;
- (b) a decision of the Council to censure that person;
- (c) a decision of the Council to suspend that person's registration or enrolment; or
- (d) a decision of the Council to cause that person's name to be removed from the Register or Roll,

may, within 3 months of the receipt by that person of a notice to that effect, appeal to a Judge in Chambers, whose decision shall be final.

(2) The Council may, pending an appeal under subsection (1) of any person aggrieved by its decision to

- (a) suspend that person's registration or enrolment; or
- (b) cause that person's name to be removed from the Register or Roll,

on the application of that person, suspend the operation of that decision until the determination of the appeal.

(3) The Judge may,

- (a) on the hearing of an appeal against refusal of registration or enrolment, dismiss the appeal or allow the appeal and direct the Council to cause the registration or enrolment to be effected;
- (b) on the hearing of an appeal other than an appeal against refusal of registration or enrolment, as the case may be,
 - (i) dismiss the appeal and confirm the decision of the Council;
 - (ii) allow the appeal and set aside the decision of the Council;
 - (iii) allow the appeal and direct that the disciplinary proceedings in respect of which the decision of the Council is made be reconducted by the Council; or
 - (iv) set aside the penalty imposed by the Council and impose in substitution for that penalty, such other penalty under section 25(2) as the Judge thinks fit.

(4) Notwithstanding subsection (1), no appeal shall be made under this section against the refusal of an application for registration or enrolment, in a case in which the registration or enrolment is conditional upon the

applicant satisfying the Council that the applicant is qualified to be registered or enrolled, as the case may be.

Responsibility of Midwives in Emergencies

- 30. (1)** Where it is reasonable to believe that a case of emergency involving a patient exists, a midwife shall Responsi-
bility of
midwives in
emergencies.
- (a) call a medical practitioner to her assistance; or
 - (b) cause the patient to be conveyed to a hospital,

and if the patient is certified by a Welfare Officer to be unable to pay any fee involved, the fee shall be paid out of moneys voted for the purpose by Parliament.

(2) The midwife shall immediately report to the Chief Medical Officer every case of emergency, and shall furnish such information as the Chief Medical Officer requires.

(3) The Minister or a person authorised by the Minister for the purpose may recover any fee paid under subsection (1) as a debt due to the Crown in civil proceedings before a magistrate for District "A", from the patient, husband or guardian of the patient.

Miscellaneous

31. The Council may approve the letters or symbols indicating the registration or enrolment of a nursing professional. Emblems.

32. (1) Any person who, for the purpose of procuring or attempting to procure the registration or enrolment of that person or any other person under this Act makes or produces or causes to be made or produced any fraudulent representation or declaration either verbally, in writing, or otherwise, is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for 3 months or to both. Offences.

- (2) A person, not being a nursing professional who
- (a) assumes or uses any name, title or description implying that that person is entitled to be recognized or to practise;
 - (b) advertises or holds himself out as a person authorised or qualified to practise; or
 - (c) practises,

as a nursing professional is guilty of an offence under this Act and is liable on summary conviction to a fine of \$5 000 or to imprisonment for 3 months or to both.

Exceptions
in case of
emergencies.

33. Nothing in this Act prevents a person from performing in cases of emergency, nursing services without hire, gain or hope of reward.

Exemption
from
liability.

34. Nothing done by any member of the Council, the Registrar or any person acting under the authority of the Council or the Registrar, shall, if that thing was done *bona fide* for the purposes of this Act or the regulations, subject that person to any action, liability, claim or demand.

Recovery
of fees.

35. Any registration or enrolment fee payable under this Act which remains unpaid for one month from the date on which that fee becomes payable may be recovered as a debt due to the Crown in civil proceedings before a magistrate for District "A".

Expenses.

36. Any expenses incurred by the Council in the performance of its functions under this Act and the regulations shall be defrayed out of moneys voted for the purpose by Parliament.

Rules.

37. (1) Subject to the approval of the Minister, the Council may make rules for any of the following purposes:

- (a) the proper conduct of its affairs, including the time, manner and place of meeting, and the proceedings thereof;

- (b) prescribing the conditions and qualifications for the admission to training of persons as nursing professionals;
- (c) prescribing syllabuses of study and programmes of training to be followed at recognized places of training or affiliated places of training in respect of nursing professionals;
- (d) prescribing the fees to be paid by candidates for examinations and regulating the conduct of examinations to be passed as a condition of admission to registration or enrolment as a nursing professional;
- (e) regulating and defining the nature of the services to be performed by nursing professionals;
- (f) prescribing the minimum number of hours of instruction constituting the course of training for nursing assistants and nursing auxiliaries;
- (g) providing for the enrolment as nursing assistants or nursing auxiliaries of persons trained or partly trained as such outside Barbados, and the conditions for such enrolment;
- (h) the conduct of examinations and matters relating thereto, and the fees to be paid to examiners in respect of examinations;
- (i) the determination of professional conduct and general fitness to practise as a nursing professional;
- (j) the institution of disciplinary proceedings in relation to any charge under section 25, and the manner in which those proceedings are to be conducted.

Regulations. 38. The Minister may make regulations generally for carrying out the purposes of this Act and in particular for

- (a) prescribing the fees to be paid for registration or enrolment, and the fees subject to sections 24 and 37, to be paid for any of the purposes of this Act; and
- (b) prescribing anything not mentioned in section 37 that is by this Act required to be prescribed.

Savings in relation to property. 39. (1) With effect from the date of the commencement of this Act, all assets and liabilities of the former Council shall vest in the Council.

(2) With effect from the date of the commencement of this Act, any existing right, privilege, duty or obligation conferred or imposed upon the former Council shall be deemed to be conferred or imposed on the Council.

(3) All deeds, bonds, instruments and contracts subsisting immediately before the commencement of this Act to which the former Council is a party, shall be of full force and effect against or in favour of the Council, and enforceable as fully and effectually as if the Council had been a party thereto.

Repeal. 40. The *Nurses and Midwives (Registration) Act* is repealed.
Cap. 372.

Commence-ment. 41. This Act shall come into operation on a date to be fixed by proclamation.

SCHEDULE

(Section 3)

1. The Nursing Council of Barbados shall comprise 15 persons constituted as follows:
 - (a) the Chief Nursing Officer, *ex officio*;
 - (b) the Registrar *ex officio*;
 - (c) 6 persons appointed by the Minister, one of whom must be a representative of private nursing services and one a member of the general public;
 - (d) one Senior Technical Officer in the Ministry of Education who is responsible for matters relating to nursing;
 - (e) 6 representatives of practising nursing professionals appointed by the Minister, 4 of whom must be nominated by the Barbados Nurses Association and 2 by the Nurses, Assistants, Aides Association of Barbados.
2. The Council may
 - (a) appoint committees for the proper carrying out of its functions under this Act and a committee may be composed of members of the Council or other persons.
 - (b) delegate to a committee any function it considers necessary.
3. (1) Members of the Council other than *ex officio* members shall hold office for 3 years, but are eligible for re-appointment.
 - (2) No member other than an *ex officio* member shall hold office for more than 2 consecutive terms, but such member is eligible for re-appointment after the expiration of one year thereafter.

4. (1) The Council shall elect from among its members a Chairman and Deputy Chairman for a term of 3 years, and the persons elected shall be eligible for re-election.

(2) In the absence of the Chairman or Deputy Chairman from any meeting, the Council shall elect one of the members present to be Chairman of that meeting.

5. Eight members of the Council shall form a quorum.

6. Subject to the provisions of this Act, the Board may regulate its own proceedings.