



SAMOA

DENTAL PRACTITIONERS ACT 2007

Arrangement of Provisions

PART 1 PRELIMINARY

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

PART 2 DENTAL COUNCIL

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

PART 3 PROFESSIONAL STANDARDS

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

PART 4 REGISTRATION OF DENTAL PRACTITIONERS

11. Qualifications for registration
12. Applications for registration

13. Council to consider applications
14. Decisions of the Council
15. Certificate of registration
16. Annual practising certificates
17. Temporary practising certificates

PART 5 DISCIPLINE OF DENTAL PRACTITIONERS

18. Disciplinary procedures applying to dental practitioners
19. Re-registration

PART 6 ALLIED DENTAL PROFESSIONALS

20. Regulation of dental therapists, hygienists and technicians

PART 7 OFFENCES

21. Unlawful practice as dental practitioner
22. Wrongfully purporting to be a dental practitioner
23. Wrongfully procuring registration

PART 8 MISCELLANEOUS

- | | |
|--|---|
| 24. No action may lie against the Council etc. | 26. Regulations |
| 25. <i>repealed</i> | 27. Repeal |
| | 28. Transitional and savings provisions |
-

DENTAL PRACTITIONERS ACT 2007

2007

No. 11

AN ACT to provide for the establishment of a reformed Dental Council, for the professional administration of the dental profession in Samoa and for the determination and enforcement of professional standards and requirements applying to dental practitioners and for related matters.

[Assent date: 15 February 2007]

[Commencement date: 16 March 2007]

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

PART 1 PRELIMINARY

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

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

(3) Notice of commencement of this Act shall be published in Samoan and English in the Savali and 1 other newspaper circulating in Samoa.

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

“allied dental professional” means a worker in the field of dentistry regulated under Part 4;

“Chairperson” means the Chairperson of the Council, and includes a member of the Council appointed as a temporary chairperson;

“Chief Executive Officer” means the Chief Executive Officer of the Ministry responsible for Health;

“Council” means the Dental Council established under section 5;

“Dental practitioner” means a person qualified to be registered under section 11 and under the Healthcare Professions Registration and Standards Act;

“*ex officio* member” means a member who holds office on the Council by reason of being the holder of the designated office, and who has the power to vote as a member of the Council;

“Healthcare Professions Registration and Standards Act” means the Healthcare Professions Registration and Standards Act 2007;

“Minister” means the Minister responsible for the Ministry;

“Ministry” means the Ministry responsible for Health established under the Ministry of Health Act 2006;

“National Health Service” means the National Health Service established under the National Health Service Act 2014;

“private practice” means the practice of dentistry by dental practitioners who are not employed by the Government to undertake the practice of dentistry on a full time basis;

“professional standards” includes standards of professional conduct, requirements and supervision arrangements;

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

“registered persons” means persons registered as dental practitioners under this Act;

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

“Secretary” means the Secretary of the Council.

(2) If an office referred to in this Act later ceases to exist, the Chief Executive Officer may determine the appropriate office most approximating the office referred to, and that office is taken to be substituted for the office ceasing to exist.

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

4. Practice of dentistry – For the purpose of this Act, the practice of dentistry includes:

- (a) the treatment of a disease, deficiency or lesions on or of the teeth or jaw;
- (b) the treatment of trauma and physical damage to the teeth, the jaw and soft tissue attached to or surrounding teeth or the jaw;
- (c) the performance of an operation in relation to the matters described in paragraphs (a) and (b);
- (d) the corrections of malpositions of teeth and jaws;
- (e) the fabrication of dental prothesis and dental appliances;
- (f) the administration of anaesthesia in connection with any operation on the teeth, jaws and soft tissue attached to or surrounding teeth or the jaw; and
- (g) the provision of any support service in relation to any of the matters stated in paragraphs (a) to (f).

PART 2

DENTAL COUNCIL

5. Dental Council – (1) A Dental Council is established and shall assume the responsibilities of the Dental Council established under the Dental Practitioners Act 1975.

(2) The Dental Council is a body corporate and may –

- (a) enter into contracts;
- (b) hold property;
- (c) maintain bank accounts; and
- (d) sue and be sued in the name of the Council.

(3) The members of the Dental Council are :

- (a) the Chief Executive Officer, who is an *ex officio* member;
- (b) the General Manager of the National Health Service, who shall be on *ex officio* member;
- (c) four dental practitioners appointed by the Samoa Dental Association (Inc) (of whom at least 1 is a dental practitioner in private practice); and
- (d) two members of the community appointed by the Minister who have skills which in the opinion of the Minister, after consulting with the Council, may assist the deliberations of the Council.

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

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

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

(6) The Council may vote to remove a member of the Council on any of the following grounds of:

- (a) inability to perform his or her functions and duties under this Act due to a physical or mental incapacity;
- (b) bankruptcy;
- (c) neglect of duty;
- (d) misconduct in office;
- (e) misconduct elsewhere affecting or likely to affect the operations or reputation of the Council;
- (f) failure to disclose and take all reasonable steps to avoid a real or apparent conflicts of interest in relation to his or her membership of the Council;
- (g) using information belonging to or under the control of the Council other than for the Council's functions;
- (h) failure to act with integrity as a member of the Council;
- (i) misuse of his or her status or authority as a member of the Council to seek or obtain a benefit for themselves or any other person or body;
- (j) departure from Samoa for a period exceeding 6 months unless the Council has approved the period of absence;
- (k) failure to attend 3 consecutive meetings of the Council without submitting an apology to Council for the member's absence;
- (l) in the case of a member of the Council who is a dental practitioner, professional misconduct or breach of the professional standards approved for dental practitioners under this Act.

(7) The office of a member of the Council becomes vacant if the member:

- (a) is removed from office under subsection (6); or
- (b) dies; or
- (c) resigns from the Council by giving written notice to this effect to the Secretary, and the office of the member may then be filled in the manner which originally applied to the appointment of the member.

(8) A member of the Council is to be paid from the funds of the Ministry, remuneration and allowances as are approved by Cabinet for members of government boards and committees.

6. Secretary of the Council – (1) The Council shall appoint 1 of its members to be Secretary to the Council.

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

(3) The Secretary shall not give a written notice or direction to the Registrar relating to the registration or discipline of a dental professional, or the determination of professional standards applying to dental practitioners unless:

- (a) the Secretary is authorised to do so by the Council; and
- (b) the notice or direction is in accordance with this Act and the Healthcare Professions Registration and Standards Act.

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

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

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

(4) At a meeting of the Council at least half plus 1 of the members of the Council holding office constitutes a quorum.

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

(6) A question before a meeting of the Council is determined by a majority of votes of the members present at the meeting.

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

(8) Resolutions of the Council may be approved if:

- (a) a copy of all relevant papers together with a draft resolution are provided to all members of the Council by the Secretary; and
- (b) at least half plus 1 of the members indicate their consent to the resolution in writing, or by facsimile or email transmission.

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

- (a) to administer the procedures applying to the registration and discipline of Dental Practitioners as provided for by this Act and the Healthcare Professions Registration and Standards Act;
- (b) to determine the qualifications and experience necessary for registration as a dental practitioner;
- (c) to determine any qualifications and experience necessary for a dental practitioner to be in private practice or work for the National Health Service;
- (d) to determine the requirements for continuing education to be undertaken by registered persons;
- (e) to determine the professional standards applying to dental practitioners and the practice of dentistry in Samoa;
- (f) to bring the professional standards to the attention of registered persons in a manner that the Council thinks fit;
- (g) to assist the Registrar to effectively monitor and enforce the approved professional standards and

- notify the Registrar of suspected breaches for investigations to be undertaken;
- (h) to advise the Ministry and the National Health Service and other Government agencies in relation to matters related to the practice of dentistry and the provision of dental services in Samoa;
 - (i) to assist the Ministry and the National Health Service to develop, monitor and enforce policies relevant to the practice of dentistry and the provision of dental services in Samoa;
 - (j) to determine certain professional rights of dental practitioners relevant to the performance of their practice of dentistry;
 - (k) to assist in the resolution of disputes which may arise between or amongst dental practitioners; and
 - (l) to develop and implement arrangements for the regulation and supervision of dental therapists, hygienists and technicians.
- (2) The Council may exercise any power:
- (a) prescribed by this Act, the Healthcare Professions Registration and Standards Act and any applicable law; and
 - (b) which is necessary or incidental to any function, duty or responsibility of the Council provided for in this Act, the Healthcare Professions Registration and Standards Act and any applicable law.

PART 3

PROFESSIONAL STANDARDS

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

- (a) determine the professional standards to be observed by dental practitioners;
- (b) determine any specific professional standards to apply to dental practitioners in private practice or working for the National Health Service;
- (c) determine matters relevant to the responsibilities of dental therapists, hygienists and technicians, and

the supervision of their work by dental practitioners;

- (d) ensure that the professional standards approved under this section:
 - (i) are consistent with the proper and effective administration and operation of hospitals and the provision of dental and medical services to the public;
 - (ii) reflect matters of Government policy and administrative practice relating to the provision of dental and medical services as advised by the Ministry; and
 - (iii) ensure that the dental services provided to all persons in Samoa meet accepted international standards and are consistent with the human rights applying to all persons in Samoa;
- (e) review the approved professional standards, and make necessary amendments to them:
 - (i) at least once every calendar year; and
 - (ii) when a specific request to do so is made by the Chief Executive Officer;
- (f) liaise with the Registrar when professional standards are being determined or changed to ensure that the requirements of paragraph (d) are met;
- (g) notify the Registrar of the approved professional standards or the changes to them; and
- (h) take appropriate action to monitor and enforce the professional standards, in accordance with the requirements of this Act.

(2) The Council may adopt the professional standards applying to Dental Practitioners in any other country as the professional standards to be observed by dental practitioners in Samoa.

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

10. Professional standards applying to other healthcare professionals to be taken into account – In consultation with

the Registrar, the Council shall ensure that the professional standards determined under section 9, and by other Councils relating to the work of healthcare professionals, take account of the role of other healthcare professionals affecting the work and duties of dental practitioners and allied dental professionals.

PART 4

REGISTRATION OF DENTAL PRACTITIONERS

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

- (a) have a degree in dentistry from an educational institution recognised by the Council;
- (b) be of good character and reputation; and
- (c) have undertaken such practical experience in the practice of dentistry as the Council may require.

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

- (a) the courses or courses undertaken by the applicant for the obtaining of the relevant degree and the academic record of the applicant;
- (b) any required practical experience in the practice of dentistry;
- (c) any matter relevant to the applicant undertaking private practice or working for the National Health Service;
- (d) any current registration to practise dentistry in Samoa or elsewhere held by the applicant;
- (e) any current eligibility for the practice of dentistry held by the applicant, including compliance with a requirement to undertake continuing education;
- (f) the identity, age, good character and reputation of the applicant; and
- (g) any disciplinary action taken against the applicant as a dental practitioner in Samoa or elsewhere.

(3) Despite anything in this Act, a person who was registered as a dental practitioner under the Dental Practitioners Act 1975 immediately prior to the commencement of this Act is entitled to registration as a dental practitioner under this Act.

12. Applications for registration – An application for registration as a dental practitioner must be :

- (a) made in writing to the Secretary in a form approved by the Council;
- (b) accompanied by the prescribed fee;
- (c) accompanied by 2 recent references as to the applicant's good character, reputation and professional competence given by dental practitioners of good standing (whether in Samoa or elsewhere); and
- (d) accompanied by evidence to the satisfaction of the Council of the matters referred to in section 11.

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

(2) When considering an application for registration, the Council may:

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

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

- (a) defer the consideration of the application until:
 - (i) the applicant has provided any further information or any verification required by Council;

- (ii) the applicant has complied with a requirement made by Council under section 13(2); or
- (iii) a person required by Council to provide verification of a matter by statutory declaration has done so;
- (b) approve the application;
- (c) permit the applicant to be provisionally registered if the Council is satisfied that the applicant is qualified to be registered but lacks sufficient practical experience in the practice of dentistry; or
- (d) refuse the application.

(2) A person who is permitted to be provisionally registered under subsection (1)(c) may be employed or permitted to practice dentistry in an approved hospital or other health care service for such period as the Council considers necessary for the applicant to acquire the practical experience needed for registration.

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

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

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

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

(2) Each practising certificate shall:

- (a) be in the form approved by the Council;
- (b) expire on 31 December in the year for which it is issued; and
- (c) be issued by the Registrar or the Secretary in accordance with any arrangement made between the Council and the Registrar.

(3) The approved form of a practising certificate shall indicate whether the dental practitioner is entitled to a right to private practice or to work for the National Health Service, as the case may require.

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

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

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

- (a) submits an application to do practical training in a hospital or other health care service in Samoa;
- (b) is accepted to do the practical training by the National Health Service; and
- (c) undertakes to work in accordance with any direction given by the Council or the National Health Service.

(3) A certificate issued under this section may not remain in force for a period of more than 3 months from the date of its issue but may be renewed for a further period of no more than 3 months at a time by the Council.

(4) The Council may cancel a certificate issued under this section for any reason during its currency.

PART 5

DISCIPLINE OF DENTAL PRACTITIONERS

18. Disciplinary procedures applying to dental practitioners – (1) Disciplinary action may be taken against a dental practitioner for:

- (a) a breach of the professional standards;
- (b) an act or omission by the dental practitioner in the course the dental practitioner's work which

negligently, carelessly, unreasonably, unethically or recklessly places the life or health of any person at risk;

- (c) a criminal offence committed by the dental practitioner which is in any way associated with the work or duties of the dental practitioner; or
- (d) a breach or failure to observe a direction given or requirement imposed by a person empowered by law or contract to give directions or impose requirements on the dental practitioner which relate to the work or duties of the dental practitioner.

(2) All disciplinary action taken by the Council against dental practitioners must be in accordance with the procedures prescribed in Part 5 of the Healthcare Professions Registration and Standards Act.

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

PART 6

ALLIED DENTAL PROFESSIONALS

20. Regulation of dental therapists, hygienists and technicians – The Head of State, acting on the advice of Cabinet, may make regulations relating to dental therapists, hygienists and technicians, including but not limited to the following:

- (a) the duties and responsibilities which may be performed by dental therapists, hygienists and technicians;
- (b) the recognised qualifications and experience for persons to be regarded as dental therapists, hygienists and technicians;

- (c) the recognition and enforcement of standards and requirements determined by Council to apply to dental therapists, hygienists and technicians;
- (d) the disciplinary procedures applying to dental therapists, hygienists and technicians;
- (e) the penalties which may be imposed on dental therapists, hygienists and technicians for disciplinary breaches;
- (f) offences and penalties relating to the work of dental therapists, hygienists and technicians, and by persons purporting to hold such positions or perform the duties of allied dental professionals without legal authority.

PART 7 OFFENCES

21. Unlawful practice as a dental practitioner – (1) No person shall practise as a dental practitioner or carry on business as a dental practitioner in Samoa, unless:

- (a) the person is registered as a dental practitioner in accordance with this Act and the Healthcare Professions Regulation and Standards Act; and
- (b) the person is holding a current practising certificate under this Act:

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

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

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

23. Wrongfully procuring registration – A person who:

- (a) makes or causes to be made a false entry in the register; or
- (b) procures or attempts to procure registration under this Act for that person or any other person by making a false or fraudulent representation or declaration; or
- (c) furnishes false information or forged document in support of an application for registration under this Act, - commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 7 years, or both.

**PART 8
MISCELLANEOUS**

24. No action may lie against the Council etc. – (1) The Registrar, the Ministry, a member of the Council and the Secretary are not liable for a loss or damage suffered by a person arising from any act or omission done in relation to the registration and discipline of dental practitioners and allied dental professionals under this Act.

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

25. Repealed

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

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

- (a) prescribe the forms of applications, certificates and other documents required under this Act, and the manner in which notices may be served, and the times when they are taken to have been served;
- (b) prescribe the fees payable in respect of education, examination and registration under this Act, in

respect of any alteration of or addition to a register kept under this Act, and in respect of any other matter under this Act; and

(c) prescribing fines not exceeding 100 penalty units for the breach of any regulation.

(3) The amount of a fee or charge prescribed under subsection (2):

(a) shall be proposed by the Council; and

(b) is subject to the consideration and approval of the National Revenue Board under the Public Finance Management Act 2001.

27. Repeal – The Dental Practitioners Act 1975 is repealed.

28. Transitional and savings provisions – (1) The registration of all dental practitioners under the Dental Practitioners Act 1975 continues to have full force and effect as if the registration was made under this Act.

(2) All practising certificates issued under the Dental Practitioners Act 1975 continue to have full force and effect until 31 December next following the commencement of this Act.

(3) All determinations of the Dental Council made under the Dental Practitioners Act 1975, and all disciplinary proceedings and criminal proceedings being undertaken by or on behalf of the Dental Council or arising out of or under the Dental Practitioners Act 1975 as at the commencement of this Act is taken to have been made and taken under this Act.

(4) A reference in law (other than this Act) to the Dental Practitioners Act 1975 is taken as a reference to this Act except where the context otherwise requires.

REVISION NOTES 2008 – 2017

This is the official version of this Act as at 31 December 2017.

This Act has been revised by the Legislative Drafting Division from 2008 to 2017 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

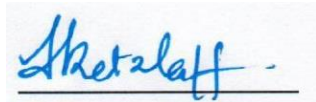
The following general revisions have been made:

- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (b) Amendments have been made to up-date references to offices, officers and statutes.
- (c) Insertion of the commencement date
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General.
 - (i) “Every” and “any” changed to “a”
 - (ii) “shall be” changed to “is” and “shall be deemed” changed to “is taken”
 - (iii) “shall have” changed to “has”
 - (iv) “shall be guilty” changed to “commits”
 - (v) “notwithstanding” changed to “despite”
 - (vi) “pursuant to” changed to “under”
 - (vii) “it shall be lawful” changed to “may”
 - (viii) “it shall be the duty” changed to “shall”
 - (ix) Numbers in words changed to figures
 - (x) “hereby” and “from time to time” (or “at any time” or “at all times”) removed
 - (xi) “under the hand of” changed to “signed by”
 - (xii) Part numbering changed to decimal

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

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

- Section 12(b)** - replaced “application” with “prescribed”;
- Section 25** - repealed;
- Section 26** - inserted new subsection (3).



Lemalu Hermann P Retzlaff

Attorney General of Samoa

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