

CAYMAN ISLANDS



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THE HEALTH PRACTICE (AMENDMENT) LAW, 2013

(LAW 13 OF 2013)

THE HEALTH PRACTICE (AMENDMENT) LAW, 2013

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CAYMAN ISLANDS

Law 13 of 2013.

I Assent

Duncan Taylor

Governor.

29th April, 2013

**A LAW TO AMEND THE HEALTH PRACTICE LAW (2005 REVISION)
TO MAKE IT MANDATORY FOR A REGISTERED PRACTITIONER
TO OBTAIN A PRACTISING LICENCE IN ORDER TO PRACTISE HIS
PROFESSION IN THE ISLANDS; TO EFFECT MISCELLANEOUS
AMENDMENTS WITH A VIEW TO IMPROVING THE PROVISION OF
HEALTH SERVICES; AND FOR INCIDENTAL AND CONNECTED
PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Health Practice (Amendment) Law, 2013.

Short title and commencement

(2) The provisions of this Law come into force as follows -

- (a) sections 11 and 13 come into force immediately after the Health Practice (Amendment) Law, 2011 comes into force; and
- (b) the other provisions of this Law come into force on such date as may be appointed by Order made by the Governor in Cabinet and different dates may be appointed for different provisions and in relation to different matters.

2. The Health Practice Law (2005 Revision), in this Law referred to as the “principal Law”, is amended in section 2 by inserting, after the definition of the word “Minister”, the following definition -

Amendment of section 2 of the Health Practice Law (2005 Revision) - definitions

““practising licence” means a licence issued pursuant to section 27A(1);”.

- Repeal and substitution of section 10 - health fees
3. The principal Law is amended by repealing section 10 and substituting the following section -
- “Health fees
10. (1) The manager of a health care facility shall display, in a prominent part of the health care facility, a notice stating that there is available, on request, a list of the fees charged by the facility for each health service provided there.
- (2) Where a manager fails -
- (a) to display such notice in accordance with subsection (1); or
- (b) to make such list available to a person requesting it under subsection (1),
- he is guilty of an offence and liable on summary conviction to a fine of one thousand dollars.”.
- Amendment of section 11 - refusal of certificate
4. The principal Law is amended in section 11(2) by deleting the words “thirty days” and substituting the words “twenty-one days”.
- Amendment of section 13 - revocation of a certificate and appeal against revocation
5. The principal Law is amended in section 13(1)(c) by deleting the word “licence” and substituting the word “certificate”.
- Amendment of section 15 - offences
6. The principal Law is amended in section 15(2) by deleting paragraph (a) and substituting the following paragraph -
- “(a) ensure that the registered practitioners practising at the health care facility have malpractice insurance or indemnity cover approved by the Commission;”.
- Amendment of section 16 - inspection of health care facilities
7. The principal Law is amended in section 16(5)(a) by inserting after the words “at any reasonable time” the words “(or, in cases of emergency, at any time)”.
- Amendment of section 18 - prohibition notices
8. The principal Law is amended in section 18(2)(a) and (b), respectively, by deleting the word “inspectors” and substituting the word “inspector”.
- Amendment to heading of principal Law - Councils and registration of practitioners
9. The principal Law is amended by deleting the heading appearing above section 21 and substituting the following heading -
- “Councils, registration and licensing of practitioners”.**
- Amendment of section 21 - Councils
10. The principal Law is amended in section 21 as follows -

- (a) in subsection (1)(c) by inserting after the word “pharmacy” the words “specified in the Seventh Schedule”; and
- (b) in subsection (1)(i) by inserting after the word “register” the words “and license”.

11. The principal Law is amended in section 23 as follows -

Amendment of section
23 - establishment and
maintenance of registers

- (a) by repealing subsection (3) and substituting the following subsection -

“ (3) Each register established by a Council under subsection (1) shall consist of three lists -

- (a) the principal list;
- (b) the institutional registration list; and
- (c) the provisional list.”; and

- (b) by repealing subsection (4) and substituting the following subsection --

“ (4) Each register of a profession maintained by a Council shall contain-

- (a) in the principal list, the names of persons who are registered under section 24 as fully registered practitioners;
- (b) in the institutional registration list, the names of persons who are registered under section 24A as registered practitioners who are institutionally registered to practise in the Islands on the terms specified in that section; and
- (c) in the provisional list, the names and other prescribed data of persons who are registered to work under supervision in posts approved by the Councils under section 25 as part of the completion of their training and recognised by the relevant institution.”.

12. The principal Law is amended in section 24 as follows -

Amendment of section
24 - full registration

- (a) by repealing subsection (1) and substituting the following subsection -

“ (1) Subject to this Law, a person who satisfies the conditions mentioned in subsection (2) shall be registered by the relevant Council as a fully registered practitioner in the principal list under section 23.”;

- (b) by repealing subsection (3); and

- (c) in subsection (4), by inserting after the word “Council” the words “, or in his absence the deputy chairman,”.

Amendment of section
24A - special
registration

13. The principal Law is amended in section 24A as follows -

- (a) in the marginal note by deleting the words “Special registration” and substituting the words “Institutional registration”;
- (b) in subsection (1) -
 - (i) by deleting the words “specially registered” and substituting the words “institutionally registered”; and
 - (ii) by deleting the words “special registration” and substituting the words “institutional registration”;
- (c) in subsections (2) and (3) by deleting the words “specially registered” and substituting the words “institutionally registered”; and
- (d) in subsection (4) by inserting after the words “two years” the words “, and may be renewed for only two consecutive periods of two years;”.

Amendment of section
25 - provisional
registration

14. The principal Law is amended in section 25 as follows -

- (a) by repealing subsection (1) and substituting the following subsection -
 - “ (1) Subject to this Law, any person who -
 - (a) satisfies the Council of the matters specified in section 24(2)(a), (b), (c), (e) and (f);
 - (b) has, or is working towards, a relevant qualification recognized by the Council; or
 - (c) is enrolled in an institution recognized by the Council,may apply to be registered provisionally under this section, and that person shall be so registered.”; and
- (b) by inserting after subsection (3) the following subsection -
 - “ (4) Registration under this section shall be for a period not exceeding two years and a person who is provisionally registered under this section and who wishes to renew his registration shall apply for such renewal not less than sixty days prior to the expiration of his registration.”.

Repeal of section 26 -
overseas list

15. The principal Law is amended by repealing section 26.

16. The principal Law is amended by inserting after section 27, above the heading “**General provisions concerning registration**”, the following section -

Insertion of section 27A
- practising licence

“Practising
licence

27A.(1) A registered practitioner shall only practise as a practitioner while he is in possession of a valid practising licence, issued to him by the Council in the prescribed form on payment of the prescribed fee to the registrar.

(2) A practising licence shall be valid for a period of two years commencing on the date of its issue, or re-issue, as the case may be.

(3) The Council may, upon the recommendation of the Governor, waive the prescribed fee payable by a registered practitioner who is in full-time employment in the Government service, if the Council is satisfied that the registered practitioner is not also engaged in private practice.

(4) A practising licence shall not be issued to a registered practitioner unless the Council is satisfied that the registered practitioner has adequate malpractice insurance, liability insurance, other relevant insurance or indemnity cover obtained from an authorised insurer and approved by the Commission.

(5) If the name of a registered practitioner is removed from the register, any practising licence issued to him shall cease to be in force.

(6) If, for a period of not less than five consecutive years, a registered practitioner ceases to be in possession of a practising licence, the name of the registered practitioner shall be removed from the register, unless he applies to the relevant Council to be retained on the register and pays the prescribed fee.

(7) Whoever -

- (a) practises in contravention of subsection (1); or
- (b) being a registered practitioner, practises without having adequate malpractice insurance, liability insurance, other relevant insurance or indemnity cover approved by the Commission,

is guilty of an offence and liable on summary conviction to a fine of twenty-five thousand dollars.”.

Amendment to heading of principal Law - general provisions concerning registration

17. The principal Law is amended by deleting the heading appearing above section 28 and substituting the following heading -

“General provisions concerning registration and licensing”.

Amendment of section 28 - power to make regulations with respect to the registers

18. The principal Law is amended in section 28(2) as follows -

- (a) in paragraph (a) by inserting after the word “register” the words “and the lists of licensed practitioners”;
- (b) in paragraphs (b) and (c) by inserting after the word “registration” wherever it appears, the words “and licensing”;
- (c) in paragraph (f) by deleting the word “renewal” and substituting the words “revision, updating”;
- (d) in paragraph (g) by deleting the word “renew” and substituting the word “add”;
- (e) by repealing paragraph (h) and substituting the following paragraph -
 - “(h) any failure on the part of a registered person to comply with conditions subject to which his registration or practice licence has effect, including provisions for the Council to refuse to renew his practice licence or remove his name from the lists of licensed practitioners;” and
- (f) in paragraph (k) by inserting after the word “registered” the words “or licensed”.

Amendment of section 29 - access to the registers, etc.

19. The principal Law is amended in section 29 as follows -

- (a) in the marginal note by inserting after the word “registers” the words “and lists”;
- (b) in subsection (1) by deleting the words “registers of” and substituting the words “registers and lists of licensed”;
- (c) in subsection (2) by deleting the word “registers” and substituting the words “lists of licensed practitioners”;
- (d) in subsection (3) -
 - (i) by deleting the word “registered” and substituting the word “licensed”; and
 - (ii) by deleting the word “registers” and substituting the word “lists”; and
- (e) by repealing subsection (4).

20. The principal Law is amended in section 30 as follows -

Amendment of section
30 - removal of names
and frauds or errors in
relation to registration

- (a) in subsection (1) by deleting the words “, has otherwise ceased to maintain the requirements of registration or has ceased to practise in the profession in respect of which he is registered” and substituting the words “or has otherwise ceased to maintain the requirements of registration”;
- (b) in subsection (2) by deleting the word “registration” and substituting the word “licence”; and
- (c) in subsection (6) -
 - (i) in paragraph (a) by deleting the words “address or name” and substituting the words “contact information or contact details”;
 - (ii) by repealing paragraph (b) and substituting the following paragraph -

“(b) any change in his registration or licensure in any other jurisdiction;”;
 - (iii) in paragraph (c) by deleting the word “country” wherever it appears and substituting the word “jurisdiction”;
 - (iv) by deleting the word “or” appearing at the end of paragraph (c);
 - (v) by deleting the comma appearing at the end of paragraph (d) and substituting “; or”; and
 - (vi) by inserting after paragraph (d) the following paragraph -

“(e) any change in the scope of practice in the profession in respect of which he is registered,”.

21. The principal Law is amended in section 31 as follows -

Amendment of section
31 - registration fees

- (a) in the marginal note by inserting after the word “Registration” the words “and licensing”;
 - (b) in subsection (1) by repealing paragraph (b) and substituting the following paragraph -

“(b) prescribing a fee to be charged for the issue and, as the case may be, the renewal of a practising licence; and”;
 - (c) in subsection (2) by deleting the words “the registrar to erase from the register the name of” and substituting the words “the suspension of the practising licence of ”; and
 - (d) in subsection (2)(b) by deleting the words “his name to be erased from the register” and substituting the words “the suspension”;
- and

- (e) by repealing subsection (3) and substituting the following subsection -

“ (3) If a person whose practising licence has been suspended in accordance with regulations made under subsection (2) at any time pays -

- (a) such penalty (if any) as may be prescribed for the purposes of this subsection by regulations under this section; and
(b) the fee (if any) which, if the practising licence had not been suspended, would be due from him in respect of the current year,

the suspension of the practising licence shall cease.”.

Amendment of section 34 - post registration education

22. The principal Law is amended in section 34(3) by deleting the word “registration” and substituting the word “licensing”.

Amendment of section 35 - codes of standards of professional practice

23. The principal Law is amended in section 35 by repealing subsection (5) and substituting the following subsection -

“ (5) A registered practitioner shall comply with the provisions of a code prepared by a Council under this section.”.

Amendment of section 36 - censure, suspension, striking off, etc.

24. The principal Law is amended in section 36 as follows -

- (a) in subsection (1)(a) by deleting the word “medicine”;
(b) in subsections (1)(ii) and (iii) and (3)(a) by deleting the word “registration” wherever it appears and substituting the word “licence”; and
(c) in subsection (5) by deleting the words “registration, suspend his registration or to” and substituting the words “licence, suspend his licence or”.

Insertion of section 38A - emergencies

25. The principal Law is amended by inserting after section 38, above the heading “Miscellaneous and supplemental” of the following section -

“Emergencies 38A. Notwithstanding any provision of this Law, where any person meets with an accident or is taken suddenly ill and no person licensed under this Law is immediately available, it shall not be an offence under this Law if any person present having knowledge of first-aid conveys or causes to be conveyed the injured or sick person from any place of immediate danger and protects such person from shock and from excessive loss of blood.”.

26. The principal Law is amended by inserting after section 40 the following section - Insertion of section 40A
- immunity

“Immunity 40A. The following persons and entities shall not be liable in damages for anything done or omitted in the discharge or purported discharge of their respective functions, responsibilities, powers and duties under this Law, unless it is shown that the act or omission was in bad faith -

- (a) the registrar;
- (b) an inspector appointed under section 16;
- (c) the Commission;
- (d) the Appeals Tribunal;
- (e) a Council; and
- (f) any member of the Commission, the Appeals Tribunal or a Council.”.

27. The principal Law is amended in the First Schedule as follows - Amendment of First
Schedule - Health
Practice Commission

(a) in paragraph 1 -

- (i) by repealing subparagraph (1) and substituting the following subparagraph -

“ (1) The Commission consists of -

- (a) the chairman of each of the Councils;
- (b) an assignee of the Attorney General;
- (c) an assignee of the Director of Planning;
- (d) two persons representing health care facilities; and
- (e) the registrar,

appointed by the Governor.”;

- (ii) by repealing subparagraph (3) and substituting the following subparagraph -

“ (3) The registrar shall be the secretary to the Commission and shall record and keep, or cause to be recorded and kept, all minutes of the meetings, proceedings and decisions of the Commission but shall have no right to vote.”; and

- (iii) by repealing subparagraphs (5) and (6) and substituting the following subparagraphs -

“ (5) A member of the Commission shall be appointed for a term of two years or such shorter term as may be

specified in the instrument by which the member is appointed, and the Governor shall cause notice of such appointment to be published in the Gazette.

(6) A member of the Commission shall be eligible for reappointment for only two consecutive terms of two years.”; and

- (b) in paragraph 2 -
 - (i) in subparagraph (2) by deleting the words “three members” and substituting the words “five members”; and
 - (ii) by inserting after subparagraph (2) the following subparagraph -

“ (2A) In the absence of the chairman and the deputy chairman at any meeting, the chairman shall designate another member to act as chairman at that meeting.”.

Amendment of Second
Schedule - Health
Appeals Tribunal

28. The principal Law is amended in the Second Schedule as follows -

- (a) in paragraph 1 -
 - (i) by repealing subparagraphs (1) and (2) and substituting the following subparagraphs -

“ (1) The Appeals Tribunal consists of -

 - (a) three registered practitioners, not being members of a Council, from each of the following groups of professions -
 - (i) medicine and dentistry specified in the Fourth Schedule;
 - (ii) nursing and midwifery specified in the Fifth Schedule;
 - (iii) pharmacy specified in the Seventh Schedule; and
 - (iv) professions allied with medicine specified in the Sixth Schedule;
 - (b) two attorneys-at-law; and
 - (c) two other members neither of whom shall be qualified to practise any of the professions specified in this Law,

all of whom shall be appointed by and hold office at the pleasure of the Governor.

(2) The chairman and the deputy chairman of the Appeals Tribunal shall be attorneys-at-law of at least seven years' call to the bar and they shall be appointed by and hold office at the pleasure of the Governor.”; and

- (ii) by repealing subparagraphs (4) and (5) and substituting the following subparagraphs -

“ (4) A member of the Appeals Tribunal shall be appointed for a term of two years or such shorter term as may be specified in the instrument by which the member is appointed, and the Governor shall cause notice of such appointment to be published in the Gazette.

(5) A member of the Appeals Tribunal shall be eligible for reappointment for only two consecutive terms of two years.”;

- (b) in paragraph 2(2) by deleting the words “unless all of the members” and substituting the words “unless at least three of the members (including the chairman or deputy chairman and a registered practitioner)”;
- (c) in paragraph 3(1)(b) by inserting after the word “registration” the words “or a licence”.

29. The principal Law is amended in the Third Schedule as follows -

Amendment of Third Schedule - constitution and general proceedings, etc. of the Councils

- (a) in paragraph 1 -

- (i) by repealing subparagraph (1) and substituting the following subparagraph -

“ (1) Each of the Councils, other than the Council for Professions allied with Medicine, shall consist of the registrar by virtue of office and five other members, appointed by the Governor.”;

- (ii) by repealing subparagraph (2)(b) and (c) and substituting the following -

“(b) at least one member of the Medical and Dental Council shall be recommended by the Cayman Islands Medical and Dental Society, and one member shall be a dentist;

(c) one member of the Nursing and Midwifery Council shall be a registered nurse, one shall be a midwife and one shall be a representative of the Cayman Islands Nurses Association;”;

(iii) by repealing subparagraph (3) and substituting the following subparagraph -

“ (3) The Council for Professions allied with Medicine shall consist of -

- (a) the registrar by virtue of office;
- (b) six members, being registered practitioners in any of the professions specified in the Sixth Schedule; and
- (c) one member who is not qualified to practise any of the professions specified in this Law,

appointed by the Governor.”;

(iv) by repealing subparagraph (5) and substituting the following subparagraph -

“ (5) A member of a Council shall be appointed for a term of two years or such shorter term as may be specified in the instrument by which the member is appointed, and a member of a Council shall be eligible for reappointment for only two consecutive terms of two years.”; and

(v) by inserting after subparagraph (5) the following subparagraph -

“ (6) The registrar shall be the secretary to each Council and shall record and keep, or cause to be recorded and kept, all minutes of the meetings, proceedings and decisions of each Council but shall have no right to vote.”;

(b) in paragraph 6 by inserting after subparagraph (5) the following subparagraph -

“ (5A) In the absence of the chairman and the deputy chairman at any meeting, the chairman shall designate another member to act as chairman at that meeting.”;

(c) in paragraph 11 by deleting the words “from time, to time” and substituting the words “from time to time,”; and

(d) in paragraphs 12(6) and 21(2)(b) by deleting the word “registration” wherever it appears and substituting the word “licence”.

Amendment of Fourth
Schedule - professions
of Medicine and
Dentistry

30. The principal Law is amended in the Fourth Schedule as follows -

(a) by deleting the words “Dental surgical assistants” and “Physician assistants”; and

(b) by inserting, in the appropriate alphabetical sequence, the words
“Dental assistants”.

31. The principal Law is amended by repealing the Fifth Schedule and substituting the following schedule -

Repeal and substitution of Fifth Schedule - professions of Nursing and Midwifery

“FIFTH SCHEDULE

Professions of Nursing and Midwifery

Registered General Nurse
Advanced Practice Nurse
Registered Nursing Assistant
Registered Midwife
Registered Nurse”.

32. The principal Law is amended by repealing the Sixth Schedule and substituting the following schedule -

Repeal and substitution of Sixth Schedule - professions allied with Medicine

“SIXTH SCHEDULE

Professions allied with Medicine

Acupuncturists
Audiologists
Biomedical Scientists
Chiropodists
Chiropractors
Counselors/Therapists
Cytotechnologists
Dialysis Technologists/Therapists
Dieticians
Emergency Medical Dispatchers
Emergency Medical Responders
Emergency Medical Technicians - Basic
Emergency Medical Technicians - Intermediate
Forensic Scientists
Histotechnologists
Homeopaths
Hyperbaric Medicine Technicians/Technologists
Kinesiotherapists
Laser Technicians
Massage Therapists
Medical Aestheticians
Medical Herbalists
Medical Laboratory Technicians

Medical Laboratory Technologists
Naturopathic Doctors
Nuclear Medicine Technologists
Nutritionists
Occupational Therapists
Ophthalmology Assistants/Technicians
Opticians
Optometrists
Orthoptists
Osteopaths (not trained in the United States of America)
Paramedics
Phlebotomists
Physiotherapists
Polysomnographic Technologists
Psychologists - Doctorate Level
Psychologists - Master Level
Radiographers
Respiratory Therapists
Social Workers
Speech Therapists
Surgical Technicians/Technologists
Ultrasound Technicians
Vascular Scientists/Technologists”.

Insertion of Seventh
Schedule - pharmacy

33. The principal Law is amended by inserting after the Sixth Schedule the following schedule -

“SEVENTH SCHEDULE

Pharmacy

Pharmacists
Pharmacy Technicians”.

Savings and transitional
provisions

34. (1) Where, apart from this section, anything done under or for the purposes of the former Law would cease to have effect by virtue of the amendments made by the new Law, it shall have effect as if it had been done under and for the purposes of the corresponding or relevant provisions of the new Law.

(2) References to a health practitioner registered under the former Law in any enactment, instrument or other document passed or made before the date of commencement of the new Law, shall be construed as references to a health practitioner registered in the appropriate list of the register maintained by a Council under the corresponding or relevant provisions of the new Law for that person’s profession.

(3) In the case of a matter -

- (a) which has been commenced before the Health Practice Commission, the Health Appeals Tribunal or a Council, established under the principal Law; and
- (b) which has not been finally determined before the new Law comes into force,

the matter is to continue to be dealt with as if it had been commenced under the corresponding or relevant provisions of the new Law.

(4) In this section -

“former Law” means the principal Law in force immediately before the date of commencement of this Law; and

“new Law” means the principal Law as amended by this Law.

Passed by the Legislative Assembly the 25th day of March, 2013.

Mary J. Lawrence

Speaker.

Zena Merren-Chin

Clerk of the Legislative Assembly.