



**Isle of Man**

*Ellan Vannin*

**AT 9 of 2014**

# **HEALTH CARE PROFESSIONALS ACT 2014**





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## HEALTH CARE PROFESSIONALS ACT 2014

### Index

Section	Page
<b>PART 1 – INTRODUCTORY</b>	<b>5</b>
1 Short title.....	5
2 Commencement.....	5
3 Interpretation.....	5
<b>PART 2 – REGISTERED MEDICAL PRACTITIONERS</b>	<b>6</b>
4 Recovery of charges for medical services.....	6
5 Appointment of responsible officers.....	7
<b>PART 3 – OFFENCES AND EVIDENCE</b>	<b>7</b>
6 Pretending to be a health care professional.....	7
7 Practising while registration is suspended.....	8
8 Pretending to be the holder of a licence to practise.....	8
9 Functions of a midwife not to be performed by unqualified person.....	8
10 Proof of registration, etc.....	9
<b>PART 4 – FINAL PROVISIONS</b>	<b>9</b>
11 Effect of suspension of registration.....	9
12 Regulation of health care professions.....	9
13 National Health Service Act 2001 amended.....	10
14 Other legislation amended.....	10
15 Medical Act 1985 repealed.....	12
16 Health Professions Order 2002 revoked.....	12



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## HEALTH CARE PROFESSIONALS ACT 2014

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AN ACT to prescribe the manner in which certain health care professionals are required to be registered and for related purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

### PART 1 – INTRODUCTORY

#### 1 Short title

The short title of this Act is the Health Care Professionals Act 2014.

#### 2 Commencement

- (1) This Act (apart from this section and section 1) comes into operation on such day or days as the Department may by order appoint and different days may be appointed for different purposes of this Act.
- (2) An order under subsection (1) may make such transitional and saving provisions as the Department considers necessary or expedient.

#### 3 Interpretation

In this Act —

“**Department**” means the Department of Health and Social Care;

“**fully registered chiropractor**” has the same meaning as in the UK Chiropractors Act;

“**fully registered osteopath**” has the same meaning as in the UK Osteopaths Act;

“**fully registered person**” has the same meaning as in the UK Medical Act;

**“health care professional”** means —

- (a) a registered medical practitioner;
- (b) a fully registered chiropractor;
- (c) a fully registered osteopath;
- (d) a member of the profession of nursing or midwifery who is a registrant; or
- (e) a relevant professional who is a registered professional;

**“licence to practise”** has the meaning given to that expression by section 29A(1) of the UK Medical Act;

**“registered medical practitioner”** means a person who —

- (a) is a fully registered person; and
- (b) holds a licence to practise;

**“registered professional”**, in respect of a relevant profession, has the same meaning as in the UK Health Professions Order;

**“registrant”**, in respect of a member of the profession of nursing or midwifery, has the same meaning as in the UK Nursing and Midwifery Order;

**“relevant profession”** has the same meaning as in the UK Health Professions Order except that the expression does not include “social workers in England” as that expression is defined by that Order;

**“UK Chiropractors Act”** means the Chiropractors Act 1994 (of Parliament);

**“UK Health Act”** means the Health Act 1999 (of Parliament);

**“UK Health Professions Order”** means the Health and Social Work Professions Order 2001 (originally made as the Health Professions Order 2001) made under section 60 of the UK Health Act;

**“UK Medical Act”** means the Medical Act 1983 (of Parliament);

**“UK Nursing and Midwifery Order”** means the Nursing and Midwifery Order 2001 made under section 60 of the UK Health Act;

**“UK Osteopaths Act”** means the Osteopaths Act 1993 (of Parliament).

## **PART 2 – REGISTERED MEDICAL PRACTITIONERS**

### **4 Recovery of charges for medical services**

- (1) A person who is not a registered medical practitioner may not, in a court of law, recover a charge for providing medical advice or attendance or for the performance of a surgical operation.
- (2) However, subsection (1) does not apply in respect of a person who is a member of a profession regulated by a body, apart from the General

Medical Council, mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (of Parliament).

## **5 Appointment of responsible officers**

- (1) The Department has, in respect of the Island, the same functions as a body designated in Part 1 of the Schedule to the UK Responsible Officers Regulations.
- (2) Accordingly, the Department must appoint one or more persons with the qualification prescribed by the UK Responsible Officers Regulations to evaluate the fitness to practise of registered medical practitioners practising in the Island.
- (3) A responsible officer has, in respect of a registered medical practitioner practising in the Island, the same functions as a responsible officer appointed under the UK Responsible Officers Regulations has in respect of medical practitioners practising in England.
- (4) A responsible officer, in carrying out his or her functions, must co-operate with the General Medical Council, any of its committees and any person authorised by the Council, in connection with the functions of responsible officers.
- (5) In this section “UK Responsible Officers Regulations” means the Medical Profession (Responsible Officers) Regulations 2010 made under section 45A of the UK Medical Act and section 120 of the Health and Social Care Act 2008 (of Parliament).

## **PART 3 – OFFENCES AND EVIDENCE**

### **6 Pretending to be a health care professional**

- (1) A person is guilty of an offence if, with intent to deceive, he or she, expressly or by implication falsely represents himself or herself to be a health care professional.
- (2) A person who describes himself or herself by any name that can be taken as implying that the person is any kind of health care professional, is guilty of an offence unless he or she is a health care professional of that kind.
- (3) A person (“the first person”) is guilty of an offence if the person, with intent to deceive, expressly or by implication causes or permits another person to make a representation about the first person that, if made by the first person with intent to deceive, would be an offence by that person under subsection (1) or (2).
- (4) A person is guilty of an offence if, with intent to deceive, the person makes with regard to another person (“the second person”) any

representation that the person knows to be false and that if made by the second person with intent to deceive would be an offence by the second person under subsection (1) or (2).

- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding £5,000.

## **7 Practising while registration is suspended**

- (1) This section applies to a health care professional while his or her registration is suspended.
- (2) The health care professional is guilty of an offence if he or she carries out the functions of a health care professional or, expressly or by implication, represents himself or herself as being prepared to do so.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding £5,000.

## **8 Pretending to be the holder of a licence to practise**

- (1) A person is guilty of an offence if, not being the holder of a licence to practise, he or she, with intent to deceive, expressly or by implication, falsely represents himself or herself to be the holder of a licence to practise.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding £5,000.

## **9 Functions of a midwife not to be performed by unqualified person**

- (1) A person is guilty of an offence if, not being a midwife who is a registrant, the person performs the functions of a midwife.
- (2) It is not an offence under subsection (1) if —
- (a) the person is a registered medical practitioner;
  - (b) the person is undergoing training to become a medical practitioner and the function was carried out as part of a course of practical instruction in midwifery recognised by the General Medical Council;
  - (c) the person is undergoing training to become a midwife and the function was being carried out as part of a course of practical instruction in midwifery recognised by the Nursing and Midwifery Council constituted under article 3 of the UK Nursing and Midwifery Order; or
  - (d) the person was required to carry out the function because of sudden and urgent necessity.
- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding £5,000.

## 10 Proof of registration, etc.

In respect of an offence under this Part, a certificate mentioned in —

- (a) section 34A(1) of the UK Medical Act;
- (b) section 9(8) of the UK Chiropractors Act;
- (c) section 9(5) of the UK Osteopaths Act;
- (d) article 8(4) of the UK Nursing and Midwifery Order; or
- (e) article 8(4) of the UK Health Professions Order,

is evidence of a matter certified in it.

## PART 4 – FINAL PROVISIONS

## 11 Effect of suspension of registration

- (1) This section applies if a health care professional —
  - (a) is employed as a health care professional; or
  - (b) is the holder of an appointment that can only be held by a health care professional,and the registration of the person as a health care professional is suspended.
- (2) The suspension does not of itself terminate the employment or appointment.
- (3) However, the person must not carry out the functions of the employment or appointment during the period of the suspension.

## 12 Regulation of health care professions

- (1) The Department may, by order, modify the regulation of a profession regulated by this Act or by —
  - (a) the *Dental Act 1985*; or
  - (b) the *Opticians Act 1996*;to give effect in the Island to a modification of the regulation of the profession made by an enactment regulating the profession in England.
- (2) The Department may, by order, amend the definition “**health care professional**” in section 3 to include an additional description of health care professional.
- (3) An order under this section may —
  - (a) amend or repeal a statutory provision (including a provision of this Act) that appears to the Department to be inconsistent with, or to have become unnecessary or to require modification, in consequence of the order; and

- (b) make incidental, supplementary, consequential and transitional provisions (including adding such a provision to this Act) that appear to the Department to be necessary or expedient.
- (4) Before making an order under this section the Department must consult any body that appears to the Department to represent the members of the relevant profession.
- (5) An order under this section cannot come into operation unless it has been approved by Tynwald.

### 13 National Health Service Act 2001 amended

The *National Health Service Act 2001* is amended –

- (a) by omitting the cross-heading “Regulation of medical professions” immediately before section 39A;
- (b) by repealing sections 39A, 39B, 39C, 39D and 40; and
- (c) by substituting for “**medical practitioner**” in section 43 –  
■ “**medical practitioner**” means a registered medical practitioner;■.

### 14 Other legislation amended

In a provision mentioned in column 1 of the following table, for the expression in column 2 there is substituted the expression in column 3.

Table

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<b>Provision</b>	<b>Expression to be omitted</b>	<b>Expression to be substituted</b>
<b>Access to Health Records and Reports Act 1993</b> Schedule, para 1(1)	“ <b>medical practitioner</b> ” means a fully registered person within the meaning of the <i>Medical Act 1985</i> ;	“ <b>medical practitioner</b> ” means a registered medical practitioner;
<b>Control of Employment Act 1975</b> Schedule 1, para 6	6. Employment as a doctor, that is to say, a fully registered person within the meaning of the <i>Medical Act 1985</i> .	6. Employment as a registered medical practitioner.
<b>Interpretation Act 1976</b> Section 3(1)	“ <b>registered</b> ”, for a nurse or midwife, means registered as mentioned in section 39A of the <i>National Health Service Act 2001</i> ;	“ <b>registered</b> ”, followed by a reference to a medical practitioner, chiropractor, osteopath, nurse, midwife or other health professional regulated by the <i>Health Care Professionals Act 2014</i> , means a person of that description registered in the manner prescribed by that Act;

<b>Medicines Act 2003</b> Schedule 2 (definition of doctor)	means a fully registered person within the meaning of the <i>Medical Act 1985</i>	means a registered medical practitioner
<b>Misuse of Drugs Act 1976</b> Section 38(1) (definition of “doctor”)	“ <b>doctor</b> ” means a fully registered person within the meaning of the <i>Medical Act 1985</i> ;	“ <b>doctor</b> ” means a registered medical practitioner;
<b>Poisons Act 1979</b> Section 9(2)	“ <b>doctor</b> ” means a fully registered person within the meaning of the <i>Medical Act 1985</i> ;	“ <b>doctor</b> ” means a registered medical practitioner;
<b>Veterinary Surgeons Act 2005</b> Section 2(1)(c)	(c) the carrying out or performance of any treatment, test or operation by a fully registered person within the meaning of the <i>Medical Act 1985</i> or a registered dentist within the meaning of the <i>Dental Act 1985</i> at the request of a veterinary surgeon;	(c) the carrying out or performance of any treatment, test or operation by a registered medical practitioner or a registered dentist within the meaning of the <i>Dental Act 1985</i> at the request of a veterinary surgeon;
<b>Veterinary Surgeons Act 2005</b> Section 2(1)(e)	(e) the performance by a fully registered person within the meaning of the <i>Medical Act 1985</i> of an operation on an animal for the purpose of removing an organ or tissue for use in the treatment of human beings.	(e) the performance by a registered medical practitioner of an operation on an animal for the purpose of removing an organ or tissue for use in the treatment of human beings.
<b>Video Recordings Act 1985</b> Section 8(11)	(11) For the purposes of subsection (10), an occupation is a medical or related occupation if, to carry on the occupation, a person is required – (a) to be a fully registered person within the meaning of section 9 of the <i>Medical Act 1985</i> ; or (b) to be registered as a nurse or midwife.	(11) For the purposes of subsection (10), an occupation is a medical or related occupation if, to carry on the occupation, a person is required to be a registered medical practitioner, a registered nurse or a registered midwife.

**15 Medical Act 1985 repealed**

The *Medical Act 1985* is repealed.

**16 Health Professions Order 2002 revoked**

The Health Professions Order 2002 is revoked.

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