

SPECIAL ISSUE

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REPUBLIC OF KENYA

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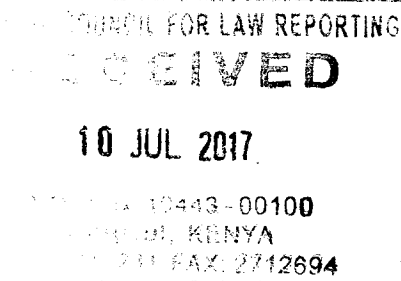
NAIROBI, 23rd June, 2017

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**THE CLINICAL OFFICERS (TRAINING,
REGISTRATION AND LICENSING) ACT**

No. 20 of 2017

Date of Assent: 21st June, 2017

Date of Commencement: 7th July, 2017

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

Section

1— Short title.

2— Interpretation.

**PART II— ESTABLISHMENT OF THE CLINICAL
OFFICERS COUNCIL OF KENYA**

3— Establishment of the Clinical Officers Council of
Kenya.

4— Membership of the Council.

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15— Registrar and register.

16— Registration and effect of registration.

17— Unregistered persons rendering medical services.

“private practice” means the practice of medicine, dentistry, orthopaedics or health work by a clinical officer for a fee either in kind or cash;

“register” means the register of clinical officers which the Registrar is required to maintain established under section 15 (5);

“Registrar” means the Registrar of clinical officers as provided under section 15 (1).

PART II – THE CLINICAL OFFICERS COUNCIL OF KENYA

3. (1) There is established a Council to be known as the Clinical Officers Council of Kenya.

Establishment of
the Council.

(2) The Council shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of —

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of moveable and immovable property;
- (c) borrowing money;
- (d) entering into contracts;
- (e) doing or performing all other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

4. (1) The Council shall consist of the following persons—

Composition of
the Council.

- (a) the chairperson who shall be elected by the council members from amongst themselves in their first council meeting and appointed by the Cabinet Secretary for health;
- (b) the Director of Medical Services or his representative;
- (c) the Chief Clinical officer;
- (d) a clinical officer elected by members of faculty of Clinical Medicine from Kenya Medical Training College;

18. Every person whose name is deleted from the register for any reason shall within thirty days of publication of the deletion in the *Gazette*, surrender his certificate of registration to the Council for cancellation and where such person has died the deceased's legal representative shall surrender the certificate to the Council.

Surrender of certificates.

19. The Council shall prescribe such title or titles as may be used to denote that a person is registered under this Act.

Use of titles.

PART IV—PROVISIONS RELATING TO PRIVATE PRACTICE

20. (1) A person shall not engage in private practice as a clinical officer unless that person holds a valid practicing certificate issued under this Act.

Qualification for private practice.

(2) No person shall engage in private practice as a clinical officer unless such a person—

- (a) is registered as a clinical officer under this Act;
- (b) has practiced as a clinical officer under a senior clinical officer or senior medical officer for a period of not less than three years; and
- (c) holds a valid practicing licence issued under this Act.

(3) For the purposes of this Act, a person shall be deemed to engage in private practice if the person practices as a clinical officer—

- (a) on the person's own account and is entitled to receive the entire amount of all fees and charges earned for the person's own financial benefit; and
- (b) in partnership with others and is entitled to receive a share of the profits earned by such partnership and is liable to bear a share of any losses incurred by such partnership, but no person shall be deemed to engage in full time private practice where he is employed—
 - (i) by the government;
 - (ii) by a state corporation as defined by the State Corporations Act; or
 - (iii) by any person or partnership engaged in his profession where all fees and charges earned by him are to the benefit of his employer.

(4) A person who engages in private practice as a clinical officer contrary to the provisions of this section commits an offence and shall, on conviction, be liable to a fine not more than five hundred thousand shillings, or to imprisonment for a term not less than one year, or to both.

21. (1) An application for private practicing licence shall be made to the Registrar in duplicate, in the prescribed form.

Application for practicing licence.

(2) An application under this section shall be accompanied by the prescribed fee.

(3) The Council shall, where a clinical officer is duly registered under this Act and is not for the time being suspended from practice, within sixty days of receipt by the Council of the application, issue to the applicant a practicing certificate in the prescribed form.

(4) The Registrar shall keep one copy of every application delivered to him under this section.

(5) Any person may inspect the register and any documents relating to any entry, and may obtain from the Registrar, a copy of, or an extract from the registers on payment of the prescribed fee.

22. (1) After the expiry of twelve months from the commencement of this Act, no person shall engage in the practice of clinical medicine unless that person has been duly issued with a registration certificate and a practicing licence by the Council in accordance with this Act.

Validity of licence.

(2) A licence issued under this Act shall be valid from the date it is issued and shall expire on the 31st December of the year it is issued.

(3) Subject to subsection (2), where the name of the clinical officer is struck off the register, the licence, if any, shall expire forthwith.

(4) The Council shall have the power to renew any licence and may, refuse to renew, cancel, withdraw or suspend a licence for a period not exceeding twelve months, if satisfied that the clinical officer is guilty of professional misconduct or is in breach of any provisions of this Act or any regulations made under this Act.

(5) The Registrar shall enter in the register the date of issue of every licence.

(6) Any person who is aggrieved by the decision of the Council made under the provisions of this section may appeal within thirty days to the High Court and the High Court may confirm, vary, or annul the decision of the Council.

23. The Cabinet Secretary in consultation with the Council shall, in regulations, prescribe the terms and conditions of the business and practice of a clinical officer engaged in private practice.

Terms and conditions of private practice.

PART V—DISCIPLINE

24. (1) There is established a Disciplinary Committee.

Establishment of the Disciplinary Committee.

(2) The Committee shall consist of—

(a) the chairman of the Kenya Clinical Officers Association who shall be chairman of the Committee;

(b) the Principal Secretary in the ministry responsible for health or a designated representative;

(c) two clinical officers not being members of the Council, competitively and transparently appointed by the Cabinet Secretary of whom—

(i) one shall be in the public service; and

(ii) one shall be from the private practice.

(d) the Attorney-General or a designated representative; and

(e) the Registrar who shall be an ex-officio member and the secretary to the Committee.

(3) The committee shall have powers to—

(a) receive and investigate complaints made against clinical officers by the members of the public in accordance with the rules and regulations under this Act;

(b) enter upon and inspect any establishment or premises operated by a clinical officer under investigation;

(c) seize and remove any object from any premises which may be related to the matter under investigation; and