Nepal Nursing Council Act, 2052 (1996)

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The Nepal Nursing Council (First Amendment) Act, 2058 2058.10.4 (Jan. 17, 2002)

Act number 15 of the year 2052(1996)

An Act Made to Provide for the Nepal Nursing Council

Preamble: Whereas, it is expedient to establish a Nursing Council in order to manage and operate in a scientific manner the nursing business by making it effective in Nepal and also to provide for the registration of name according to the qualifications of the nurses;

Be it enacted by the Parliament in the twenty fourth year of the reign of **His Majesty King Birendra Bir Bikram Shah Dev**.

1. Short title and commencement: (1) This Act may be called as the "Nepal Nursing Council Act, 2052 (1996)".

(2) This Act shall come into force in such place and on such date as the Government of Nepal may, by a notification in the Nepal Gazette, appoint.▪

2. Definitions: Unless the subject or the context otherwise requires, in this Act:

(a) "Council" means the Nepal Nursing Council established under Section 3.

(b) "chairperson" means the chairperson of the Council.

(b1)⊗ "vice-chairperson" means the vice-chairperson of the Council.

(c) "member" means the member of the Council and this term also includes the chairperson and vice-chairperson⊗ of the Council.

(d) "nurse" means a person having obtained degree, diploma or certificate in nursing from an educational institute recognized pursuant to this Act.

(d1)⊗ "midwife" means a person having obtained degree, diploma or certificate in midwifery from an educational institute recognized pursuant to this Act.

▪ Appointed as to come into force on 2053.3.2 (June 16, 1996 A.D.) (Nepal Gazette dated 2053.3.3 (June 17, 1996 A.D.).

⊗ Inserted by the First Amendment.

Nepal Law Commission

(e) "ANM (assistant nurse midwife)" means a person having obtained certificate of ANM (assistant nurse midwife) from an educational institute recognized pursuant to this Act.

(e1) [⊗] "nursing professional" means a nurse, midwife and ANM.

(f)[◈] "registered nursing professional" means a nurse, midwife and ANM whose name is registered in the register.

(g) "register" means the registration book maintained for the registration of names of nursing professional[◈] pursuant to this Act.

(h) "registrar" means the registrar appointed or designated pursuant to Section 13.

(h1) [⊗] "educational institute" means a governmental, non-governmental or private educational institute which carries out teaching and learning activities, gives or causes to be given trainings in nursing, midwifery and ANM.

(i) "prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.

3. Establishment of Council: The Nepal Nursing Council is hereby established in order to operate the nursing service in a managed manner pursuant to this Act.

4. Council to be autonomous body: (1) The Council shall be an autonomous body corporate with perpetual succession.

(2) The Council shall have a separate seal of its own for all of its activities.

(3) The Council may, like an individual, acquire, use, sell and dispose of, or otherwise manage, any movable and immovable property.

(4) The Council may, like an individual, sue by its name and be also sued by the same name.

[⊗] Inserted by the First Amendment.
[◈] Amended by the First Amendment.

Nepal Law Commission

5. **Formation of Council:** (1) The Council established pursuant to Section 3 shall consist of the members as follows:

(a)	A person nominated by the Government of Nepal from amongst the persons who, having obtained at least bachelor degree in nursing, have gained at least fifteen years of experience in nursing profession	-Chairperson
(b)	A person nominated by the Government of Nepal from amongst the persons who, having obtained at least bachelor degree in nursing, have gained at least twelve years of experience in nursing profession	-Vice-chairperson
(c)	Two persons nominated by the Government of Nepal from amongst the campus chiefs of nursing campuses	-Member
(d)	Chairperson, Nepal Nursing Association	-Member
(e)	A nurse of officer level designated by the Director General of the Department of Health Services	-Member
(f)	A nurse of officer level designated by the Dean of the Institute of Medicines, Tribhuvan University	-Member
(g)	Three persons elected from amongst the ordinary members of the Nepal Nursing Association	-Member
(h)	One person nominated by the Government of Nepal from amongst the nurses renowned in nursing profession	-Member

Nepal Law Commission

(i) One person nominated by the Government of Nepal, on recommendation of the Council, from amongst registered nursing professionals who have already served in the nursing field for ten years and are serving as the nursing chiefs in the Regional Health Directorate, Regional Hospital or Zonal Hospital -Member

(j) On person nominated by the Government of Nepal from amongst the matrons -Member

(k) On person nominated by the Government of Nepal on behalf of the consumers renowned in the national life -Member

(l) Representative, Council for Technical Education and Vocational Training -Member

(2) Pending the election of the members as referred to in Clause (g) of Sub-section (1), two members nominated by the Government of Nepal from amongst the ordinary members of the Nepal Nursing Association shall act as the member of the Council.

(3) The Government of Nepal may make alteration in the members of the Council, by a notification in the Nepal Gazette.

(4) If the Council considers necessary, it may invite any native or foreign expert in the nursing field to attend, as an invitee, its meeting.

(5) The procedures for election to the member as referred to Clause (g) of Sub-section (1) shall be as prescribed.

6. **Term of office of member:** (1) The term of office of the members elected or nominated to the Council shall be four years. After the expiry of their term, the members may be eligible to be re-nominated or appointed.

Nepal Law Commission

Provided that, the Government of Nepal may remove the members nominated by it prior to the expiration of their term[⊗].

(2) If the office of any member falls vacant prior to the expiration of the term of office referred to in Sub-section (1), such vacancy may be filled by nomination or election for the remainder of term.

Provided[⊗] that,

(1) Election or nomination shall have been made generally within three months after the date of vacancy of post.

(2) No election or nomination shall be made for a period less than six months.

7. <u>Disqualifications for membership</u>: Any of the following persons shall not be eligible to be nominated or elected to or hold the office of member of the Council:

(a) Who is not a citizen of Nepal;

(b) Whose name is not <u>registered</u>[⊗] or has been deleted from the register;

Provided[⊗] that, this Clause shall not apply to the member as referred to in Clauses (k) and (l) of Sub-section (1) of Section 5.

(c) Who has become insolvent;

(d) Who has been convicted by a court of a criminal offense involving moral turpitude and served punishment; and

(e) Who is of unsound mind.

8. <u>Cessation of membership of Council</u>: The membership of the Council shall cease to exist in the following circumstances:

(a) If the member concerned becomes disqualified under Section 7;

(b) If resignation tendered from the office of member is accepted;

(c) If the member dies, or

[⊗] Inserted by the First Amendment.

Nepal Law Commission

(d) If the member, without giving a prior notice along with reasons to the Council absents himself/herself from three consecutive meetings of the Council;

Provided[⊗] that, the Council may give permission to any member to remain absent from the meeting of the Council only for a maximum period of six months.

9.[◈] <u>Functions, duties and powers of Council</u>: (1) The functions, duties and powers of the Council shall be as follows:

(a) To prepare such policies as may be required to smoothly operate the nursing business,

(b) To give recognition to educational institutes,

(c) To have evaluation and review of the curricula, terms of admission, examination system and other necessary terms and infrastructures of the educational institute recognized pursuant to Clause (b),

(d) If, on evaluation and review as referred to in Clause (c), the standards fixed by the Council are not found to be fulfilled, to make recommendation for the annulment of the approval to operate such educational institute,

(e) To fix qualifications of nursing professionals, enter the name of a nursing professional having possessed the qualification in the register and issue the certificate of registration,

(f) To fix work limitation of nursing professionals,

(g) To fix professional code of conduct of nursing professionals and take action against the nursing professional who violates such code of conduct.

(2) Prior to giving approval to establish and operate any educational institute, the concerned body may consult the Council. The Council shall inquire into whether

[◈] Amended by the First Amendment.

Nepal Law Commission

such educational institute has fulfilled the required standards and infrastructures and give necessary advice on that matter. Based on such advice of the Council, the concerned body shall make necessary decision as to whether or not to give approval to establish and operate the educational institute. Where approval is given to establish and operate the educational institute, a notice thereof shall be published in the Nepal Gazette.

10. **Meeting and decision of Council:** (1) The Council shall normally hold its meeting four times a year; and the chairperson may, if he/she considers necessary, call meetings for more times.

(2) The meeting of the Council shall be held at such place, time and date as may be specified by the chairperson.

(3) The meeting of the Council shall be presided over by the chairperson, by the vice-chairperson in the absence of the chairperson and by the person selected by the members present at the meeting from amongst themselves, in the absence of even the vice-chairperson.[⊗]

(4) The presence of fifty percent members of the total number of members of the Council shall be deemed to constitute a quorum for a meeting of the Council.

(5) A majority opinion shall prevail at the meeting of the Council. In the event of a tie, the person presiding over the meeting may exercise the casting vote.

(6) The decisions of the Council shall be authenticated by the registrar.

(7) The allowance and other facility receivable by the members for attending the meeting shall be as prescribed.

(8) Other procedures relating to the meeting of the Council shall be as determined by the Council itself.

11. **Delegation of powers:** The Council may, as per necessity, delegate any or all of the powers conferred on it pursuant to this Act to the chairperson, vice-chairperson,[⊗]

[⊗] Inserted by the First Amendment.

Nepal Law Commission

any member or any committee[⊗] formed pursuant to Section 12 or any member of the committee.

12. Powers to form committee: (1) The Council may, for the implementation of its decisions, form various thematic committees, as required, with specification of their coordinators and members.

(2) The provisions on the meeting and other procedures of the committee shall be as specified by the Council.

12A.[⊗] Functions, duties and powers of chairperson: The functions, duties and powers of the chairperson shall be as follows:

(a) To set priority of the agenda to be discussed at the meeting of the Council,

(b) To evaluate, or cause to be evaluated, the plans and programs operated by the Council and give direction pertaining thereto,

(c) To carry out, or cause to be carried out, the functions and activities of the Council in a managed, effective and smooth manner,

(d) To carry out, or cause to be carried out, such other functions as directed by the Council.

12B.[⊗] Functions, duties and powers of vice-chairperson: It shall be the duty of the vice-chairperson to perform and exercise, in absence of the chairperson, such functions, duties and powers as required to be performed and exercised by the chairperson.

13. Registrar: (1) The Government of Nepal may appoint or designate a person who has, after obtaining at least bachelor degree in nursing, been involved in nursing profession for at least five years as the registrar in order to carry out the day-to-day administrative business of the Council.

(2) The registrar shall act as the secretary of the Council.

(3) The terms and conditions of service and facilities of the registrar shall be as prescribed.

[⊗] Inserted by the First Amendment.

Nepal Law Commission

(4) The Government of Nepal may designate any other employee of officer level to perform the functions of the registrar in the event of his/her absence.

14. Functions, duties and powers of registrar: The functions, duties and powers of the registrar shall be as follows, in addition to those mentioned in this Act:

(a) To implement, or cause to be implemented, the decisions of the Council,

(b) To prepare the agenda to be submitted to the meeting of the Council,

(c) Other functions, duties and powers as prescribed.

15. Employees of Council: (1)The Council may appoint the required employees.

(2) The employees appointed pursuant to Sub-section (1) shall be under supervision and control of the registrar.

(3) The terms and conditions of service and facilities of the employees of the Council shall be as prescribed.

16. Application for registration of name in register: (1) A nursing professional,◈ who has possessed the minimum qualifications as prescribed and intends to carry on the nursing business, has to make an application, as prescribed, to the Council, in the prescribed format, for getting his/her name registered in the register, subject to this Act and the Rules framed hereunder.

(2) A nurse and ANM who are carrying on the nursing profession at the time of commencement of this Act has to make an application under Sub-section (1) for the registration of his/her name within six months after the date of commencement of this Act.

(3) A nursing professional◈ who makes an application pursuant to Sub-section (1) or (2) for the registration of his/her name has to attach the certificate relating to his/her qualifications and --------× such other documents and fees as prescribed with the application.

◈ Amended by the First Amendment.
× Deleted by the First Amendment.

Nepal Law Commission

17. **Examination of application and certificate of registration:** (1) The registrar shall make necessary inquiry into the application made pursuant to Section 16 and make a submission to the concerned thematic committee for the registration of name in the register.

(2) The concerned thematic committee shall inquire into the application made pursuant to Sub-section (1) as to whether the degree related with qualifications is recognized one or not and whether the application meets the requirements and submit a report to the Council within fifteen days.

(3) The Council shall, based on the report submitted by the committee pursuant to Sub-section (2), make decision to or not to register the name of applicant in the register.

(4) Where the Council makes decision to enter the name of the applicant in the register pursuant to Sub-section (3), the registrar shall enter the name of such applicant in the register and provide the applicant with the registration certificate in the prescribed format. Where the Council decides not to register the name of applicant, the registrar shall give information thereof to the applicant.

(5)[⊗] The certificate of registration issued pursuant to Sub-section (4) shall remain valid for a period of six years after the registration of name.

(6)[⊗] The provisions on the registration with the Council of the name of a non-Nepalese citizen as a nursing professional shall be as prescribed.

18. **Deletion of name from register and re-registration:** (1) In any of the following circumstances, the Council may issue an order to delete the name of a registered nurse and ANM from the register:

(a) where he/she has become insane;

(b) where he/she has been punished by a court in a criminal offense involving moral turpitude;

(c) where he/she has become insolvent; or

[⊗] Inserted by the First Amendment.

Nepal Law Commission

(d) where two-thirds majority of the Council adopt a resolution that he/she has not observed the code of conduct.

(2) Where a nursing professional[◈] whose name has been deleted from the register in the circumstances referred to in Clauses (a), (c) and (d) of Sub-section (1), showing a reasonable reason, makes an application for re-registration of his/her name, and the Council deems it reasonable for the re-registration of his/her name, the Council may give an order to register his/her name.

(3) In cases where an order is received pursuant to Sub-section (2), the registrar shall re-register the name of such nursing professional[◈] in the register and issue the certificate, by collecting the fees as prescribed.

18A.[⊗] Renewal of name registration: (1) For the renewal of the name of a registered nursing professional, an application, accompanied by the prescribed fees, has to be made, as prescribed, to the Council within thirty five days after the date of expiration of the time limit.

(2) If one fails to have renewal within the time-limit prescribed pursuant to Sub-section (1), an application, accompanied by the reasons for such failure and the prescribed fees, may be made, as prescribed, to the Council within sixty days after the date of expiration of the time limit.

(3) The name of a nursing profession who fails to have renewal pursuant to Sub-sections (1) and (2) shall be deleted from the register.

19. Revocation of certificate: Where the Council gets information that the name of any person has been entered in the register by fraud or mistake and this matter is held to be true following inquiry into the matter, the Council may seize and revoke the registration certificate of such person.

◈ Amended by the First Amendment.
⊗ Inserted by the First Amendment.

Nepal Law Commission

20.[◈] **Prohibition on carrying on nursing profession:** No person other than a registered nursing professional shall be entitled to carry on the nursing profession, directly or indirectly.

21.[◈] **Recognition:** (1) The Council may recognize any educational institute carrying out teaching and training in nursing and degree, diploma and certificate or other degree in nursing.

(2) The educational institute and degree, diploma, certificate or other degree recognized pursuant to Sub-section (1) shall be published in the Nepal Gazette.

(3) A person who obtains degree, diploma, certificate or other degree from a foreign educational institute relating nursing has to make an application to the Council, as prescribed, for the recognition of such degree.

(4) The Council shall make necessary inquiry into the application made pursuant to Sub-section (3) and make decision.

22. Details to be submitted: (1) An educational institute recognized pursuant to Sub-section (1) of Section 21 has to submit to the Council a report indicating the curriculum and the terms of admission, examination system, other requisite infrastructures and standards fixed by such institute for the educational qualification certificates within three months after the date of expiration of each fiscal year.

(2) The Council shall make recommendation to the Government of Nepal for necessary action against the educational institute which does not submit the details pursuant to Sub-section (1).

23. Inspection of examination: The Council may appoint and depute inspectors for the inspection of examinations to be given by the concerned educational institute for the certificates of educational quantification or other degrees recognized pursuant to Section 21. The inspectors so appointed shall submit a report to the Council, setting out such details on the examination inspected by them as may be prescribed by the Council.

◈ Amended by the First Amendment.

Nepal Law Commission

Provided that, the inspector shall not make any kind of intervention with such examination.

24.[◈] **<u>Removal of recognition</u>:** (1) If, in evaluating and reviewing the curriculum, terms of admission and other requisite infrastructures and standards fixed by an educational institute recognized pursuant to Section 21, they are not held to be appropriate and adequate, the Council shall submit to the Government of Nepal and to the university or institution with which such educational institute is affiliated its report, accompanied by its recommendation, for the cancellation of the approval for the operation of such educational institute.

(2) On receipt of the report, along with the recommendation, submitted by the Council pursuant to Sub-section (1), the university or institution granting affiliation shall inquire into the matter and give its opinion to the Government of Nepal.

(3) Based on the report submitted by the Council pursuant to Sub-section (1) and the opinion submitted by the concerned university or institution pursuant to Sub-section (2), the Government of Nepal may, in consultation with the Council, cancel the approval for the operation of such educational institute. A notice on such cancellation of the approval for the operation of educational institute shall be published in the Nepal Gazette.

(4) If any irregularity is found in any examination held by an educational institute recognized pursuant to Section 21, the Council shall make recommendation to the Government of Nepal for the cancellation of degree, diploma, certificate and other degree in nursing granted based on such examination.

(5) Where recommendation is received pursuant to Sub-section (4), the Government of Nepal may hold necessary inquiry into the matter and cancel the degree, diploma, certificate and other degree in nursing granted by such educational institute after certain date. A notice on such cancellation shall be published in the Nepal Gazette.

[◈] Amended by the First Amendment.

Nepal Law Commission

24A.[⊗] **Examination may be held:** (1) If it is necessary to maintain required standard in nursing, the Council may give examination as prescribed.

(2) The name of a nursing profession who fails in the examination given pursuant to Sub-section (1) shall not be registered in the register and renewed.

25. Prevalence of this Act: Notwithstanding anything contained in the other prevailing law, the matters contained in this Act shall be governed by this Act.

26. Fund of Council: (1) The Council shall have a separate fund of its own.

(2) The fund of the Council shall consist of the following amounts:

(a) Amounts received from the Government of Nepal,

(b) Amounts obtained as the fee for the registration of name of nursing professional, and

(c) Amounts received from any other sources.

(3) The operation of the fund of the Council shall be as prescribed.

27. Accounts and audit: (1) The accounts of the incomes and expenditures of the Council shall be maintained as prescribed.

(2) The audit of the Council shall be performed as prescribed.

(3) The Government of Nepal may, if it so desires, inspect, or cause to be inspected, the accounts of the fund of the Council at any time.

28. Dissolution of Council: (1) If the Government of Nepal thinks that the Council has failed to exercise the powers conferred to it pursuant to this Act or the Regulation framed under this Act or has abused powers or used excessive powers or failed to perform its duties pursuant to this Act and the Regulation framed under this Act, it may give necessary direction to the Council to rectify or correct the matter.[◈]

(2)[◈] If the Council fails to rectify or correct its acts and actions in pursuance of the direction given pursuant to Sub-section (1), the Government of Nepal may dissolve the Council and form an interim executive council to perform all functions

[⊗] Inserted by the First Amendment.
[◈] Amended by the First Amendment.

Nepal Law Commission

required to be performed by the Council pursuant to this Act and the Rules framed under this Act.

(3)[◈] After the dissolution of the Council pursuant to Sub-section (2), the interim executive council shall take custody of the fund and assets of the Council and hand over the same to a new council after the formation of such council.

(4)[◈] A new council shall be formed pursuant to Section 5 generally within three months after the dissolution of the Council pursuant to Sub-section (2).

29. **Punishment:** (1) A person who carries on the nursing profession in contravention of Section 20 shall be punished with a fine not exceeding Three Thousand Rupees or with imprisonment for a term not exceeding Six months or with both.

(2) A person who commits any act in violation of this Act or the Rules framed under this Act, other than the offense mentioned in Sub-section (1), shall be punished with a fine not exceeding Two Thousand Rupees.

29A.[⊗] **Appeal:** A person who is not satisfied with a decision of the Council under this Act may make an appeal to the Court of Appeal within thirty five days after the date of such decision.

30. **Authority to investigate and file case:** The authority or body to investigate and file cases on the offenses referred to in Section 20 and the procedures pertaining thereto shall be as specified by the Government of Nepal by a notification in the Nepal Gazette.

31. **Powers to frame Rules:** The Council may frame necessary Rules in order to carry out the objectives of this Act; and the Rules so framed shall come into force only after being approved by the Government of Nepal.

[◈] Amended by the First Amendment.
[⊗] Inserted by the First Amendment.