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TABLE OF CONTENTS **PAGE**

FIRST SUPPLEMENT

LEGAL SUPPLEMENT

A. **ACTS —** Act No. 7 of 2022 – The Nurses and Midwives Act 2022 … 152

B. **SUBSIDIARY LEGISLATION — NIL**

C. **BILLS — NIL**

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FRIDAY 3RD JUNE, 2022

THE OFFICIAL GAZETTE 3RD JUNE, 2022
LEGAL SUPPLEMENT — A

GUYANA

ACT No. 7 of 2022

THE NURSES AND MIDWIVES ACT 2022

I assent.

Mohamed Irfaan Ali,

President.

3rd June, 2022

ARRANGEMENT OF SECTIONS

SECTION

PART I

PRELIMINARY

1. Short title.
2. Interpretation.

PART II

NURSES AND MIDWIVES COUNCIL

3. Establishment of the Council.
4. Functions of the Council.
5. Powers of the Council.
6. Composition of the Council.
7. Election of Chairperson and Vice-Chairperson.
8. Committees of the Council.
9. Tenure of office.
10. Meetings of the Council.
11. Seal.
12. Remuneration.
13. Immunity from suit.

PART III

REGISTRATION AND LICENSING

14. Requirement to be registered and licensed.
15. Full registration.
16. Temporary registration.
17. Application for registration.
18. Entitlement on registration.
19. Application for a licence.
20. Issue of licence.
21. Refusal to issue licence.
22. Revocation and suspension of licence.
23. Licence suspended or revoked to be surrendered.
24. Re-registration after removal from register.
25. Appeal against suspension, revocation or non-renewal of licence.
26. Recovery of fees and costs.
27. Certificate to be signed by registered nursing personnel.

28. Additional qualifications.

29. Appeals.

30. Registers.

31. Removal of incorrect or fraudulent entry.

32. Certificate of the Council to be *prima facie* evidence.

33. Publication of lists.

34. Renewal of licence.

PART IV

DISCIPLINE

35. Disciplinary Committee.

36. Proceedings of the Disciplinary Committee.

37. Complaints.

38. Rules of procedure.

39. Report of the Disciplinary Committee.

40. Consideration of report of the Disciplinary Committee by Court.

41. Disciplinary action.

42. Suspension or removal of name from a register to be published.

43. Voluntary removal of name from register.

PART V

OFFENCES AND PENALTIES

44. Practising without being registered and a valid licence holder.

45. Fraudulent representation, falsification of registers, etc.

46. Advertisement or holding out by unauthorised persons.

47. Professional misconduct.

PART VI

MISCELLANEOUS

48. Employment of officers and employees of the Council.

49. Funds of the Council.

50. Accounts of the Council.

51. Regulations.

52. Repeal.

53. Transitional.

AN ACT to make provision for the registration and regulation of nurses, midwives, nursing assistants and specialist nurses, and for related matters.

A.D. 2022 Enacted by the Parliament of Guyana:-

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the Nurses and Midwives Act 2022.

Interpretation.

2. In this Act –

"CARICOM national" means a person who is a citizen of a Member State of the Caribbean Community or has a connection with a Member State of the Caribbean Community, the nature of which entitles that person to be regarded as a native or resident of or otherwise belonging to a Member State for the purposes of the laws relating to immigration;

"Chief Nursing Officer" means the Chief Nursing Officer of the Ministry responsible for health;

"Council" means the Nurses and Midwives Council established under section 3;

"Disciplinary Committee" means the Nurses and Midwives Disciplinary Committee established under section 35 (1);

"member" means a member of the Council;

"Minister" means the Minister responsible for health;

"nursing educational institution" means an approved educational facility in which nursing or midwifery training is conducted;

"nursing personnel" means a registered nurse, registered midwife, registered nursing assistant or registered specialist nurse;

"Register" means one of the Registers of nursing personnel specified in section 30;

"registered midwife" means a person who is registered as a midwife under section 14;

"registered nurse" means a person who is registered as a nurse under section 14;

"registered nursing assistant" means a person who is registered as a nursing assistant under section 14;

"registered specialist nurse" means a person who is registered as a specialist nurse under section 14;

"Registrar" means the Registrar of the Council.

PART II
NURSES AND MIDWIVES COUNCIL

Establishment of the Council.

3. There is established a body corporate to be known as the Nurses and Midwives Council.

Functions of the Council.

4. The functions of the Council are to-

(a) enroll, register, certify and license nursing personnel;

(b) establish standards of education, training, conduct and performance for nursing personnel and to ensure the maintenance of those standards;

(c) promote the interests of nursing personnel;

(d) advise the Minister on matters related to nursing personnel; and

(e) perform any other functions as may be conferred on it by this Act or any other law.

Powers of the Council.

5. In exercise of its functions under section 4, the Council shall have the power to-

(a) determine the qualifications and any other requirements necessary for registration, enrolment, certification or licensing of nursing personnel;

(b) register, enroll, certify or license nursing personnel;

(c) issue any certificate or licence to nursing personnel;

(d) open, keep and maintain the Registers required under this Act;

(e) revoke, cancel, suspend or place conditions on any certificate or licence issued by the Council;

(f) determine the scope of practice of nursing personnel;

(g) develop and disseminate a framework for and regulate continuing education for relicensure;

(h) monitor the compliance of nursing educational institutions to educational standards set by the Council;

(i) develop a code of ethics and conduct for nursing personnel;

(j) monitor the adherence to, and investigate breaches of standards and the code of ethics and conduct;

(k) exercise disciplinary control, whether by way of imposition of fines or otherwise, over persons registered or enrolled as nursing personnel;

(l) appoint and train nursing personnel as inspectors for the Council for nursing education and practice;

(m) appoint a Registrar and any other member of staff as necessary; and

(n) collect fees required to be paid under this Act.

Composition of the Council.

6. The Council shall consist of fifteen members appointed by the Minister as follows–

(a) the Chief Nursing Officer who shall be an *ex officio* member;

(b) a representative from Health Sciences Education at the Ministry responsible for health;

(c) the Director of Nursing Services of the Georgetown Public Hospital Corporation;

(d) a representative of the Nursing Programme at the University of Guyana;

(e) a representative of the Guyana Nurses Association;

(f) a representative of the Midwives Association of Guyana;

(g) four members nominated by the Chief Nursing Officer as follows-

(i) two registered nurses; and

(ii) two nursing assistants;

(h) a representative of the faculty of a private nursing school;

(i) a representative of the School of Nursing;

(j) one midwife;

(k) a technical officer from the Ministry responsible for health;

(l) a legal representative; and

(m)a representative from civil society.

Election of Chairperson and Vice-Chairperson.

7. The Council shall elect from among its members a Chairperson, a Vice-Chairperson and any other officers as it considers fit.

Committees of the Council.

8. (1) The Council may appoint committees of its members as it considers necessary for the execution of its functions, and may delegate any of its functions to any committee.

(2) Members may be appointed to serve on the following committees-

(a) Education Standards Committee;

(b) Disciplinary Committee;

(c) Registration Committee; and

(d) Finance Committee.

Tenure of office.

9. (1) The members who are not *ex-officio* shall hold office for a period of three years and shall not be eligible for re-appointment or re-election.

(2) The office of a member shall become vacant where -

(a) the member dies;

(b) the member's term of office expires;

(c) the member resigns by written notice to the Council; or

(d) the member is removed by the Council where the member-

(i) is unable to function because of physical or mental illness;

(ii) is absent from three consecutive meetings of the Council without reasonable excuse;

(iii) is convicted of an offence which the Council reasonably believes makes the member unfit to serve as a member;

(iv) is suspended or dismissed from the member's profession for malpractice or any other offence in Guyana or any other country by an order of a competent authority; or

(v) acts contrary to the provisions of this Act.

(3) Every appointment or termination of membership of the Council shall be published in the *Gazette*.

(4) Notwithstanding any vacancy or defect in the appointment of any of its members, the Council shall be considered properly constituted and its powers shall be exercisable.

Meetings of the Council.

10. (1) The Council shall meet at least once every month or more frequently as necessary to carry out its functions, at a time and place to be fixed by the Chairperson.

(2) At any meeting of the Council, a quorum is constituted where at least eight members are present.

(3) The decisions of the Council shall be by a majority of the votes of members present, and whenever there is a tie, the Chairperson shall have a casting vote.

(4) The Council may invite any person to attend meetings of the Council for the purpose of advising or assisting the Council on any matter engaging its attention, but the person shall not have the right to vote.

Seal.

11.(1) The seal of the Council shall be kept in the custody of the Registrar and shall be authenticated by the Chairperson or one other member authorised by the Council.

(2) All documents, other than those required by law to be under seal, made by, and under all decisions of the Council may be signified under the hand of the Chairperson or Vice-Chairperson.

Remuneration.

12. The Council shall pay its members remuneration in a sum that receives the prior approval of the Minister.

Immunity from suit.

13. A member of the Council shall not be personally liable in any action or proceeding for or in respect of any act or matter done or omitted to be done in good faith in the exercise or discharge or purported discharge of any duty or function under this Act.

PART III
REGISTRATION AND LICENSING

Requirement to be registered and licensed.

14. (1) A person shall not practise nursing or midwifery in Guyana unless that person is registered and holds a valid licence issued under this Act.

(2) A person shall not practise any specialty in the field of nursing unless that person is registered as a specialist nurse under this Act.

(3) Registration under this section may be full or temporary.

Full registration.

15. Full registration under section 14 (3) shall entitle the holder of a valid licence to practise as a nursing professional unless the registration is suspended or revoked.

Temporary registration.

16.(1) Temporary registration under section 14 (3) shall entitle the holder to practise general nursing for a period not exceeding six months, unless the registration is suspended or revoked.

(2) The holder of a temporary registration shall not practise as a nursing personnel unless the holder is fully supervised by a holder of a valid licence, and this information shall be submitted at the time of the application for temporary registration.

(3) Where the Council issues a temporary registration to an applicant, the registration may specify –

(a) the time during which the temporary registration remains in force;

(b) the location to which it extends;

(c) the nature and character of the work which may be performed; and

(d) any other terms and conditions as the Council considers necessary to impose.

Application for registration.

17. (1) A person, when registering as a nursing personnel, shall apply to the Council in the prescribed form and the application shall be accompanied by the following-

(a) the required non-refundable application fee;

(b) proof of identity of the applicant;

(c) proof of ability to read, write, speak and understand the English language, where the person is not from a country in which English is

an official language or where for any other reason the Council has cause to question the English language proficiency of the applicant;

(d) evidence of the qualifications of the person including-

(i) any certificate, diploma or degree granted by an educational institution that the Council reasonably believes provided satisfactory training in the field; and

(ii) where an application is made for full registration, a transcript from any training institution in subparagraph (i);

(e) where applicable, a certificate of good standing from the person's previous registering body, which shall include the following information-

(i) professional conduct of the person; and

(ii) any complaint made by patients or members of the public against the person and lodged with the registering body;

(f) where applicable, proof of a valid licence;

(g) where a person wants temporary registration, the person shall satisfy the Council that the person is legally admitted to practise in Guyana and would otherwise qualify for registration under this section by virtue of the person's existing licence to practise nursing in the person's country of nationality or residence;

(h) any other information required by the Council or under this Act.

(2) Where a person under this Act is a CARICOM national, the Council shall deal with the person in the same manner as it would to a national of Guyana.

(3) Where a person under this Act is not a CARICOM national, registration to practise granted under this Act shall be subject to any reasonable limitations as the Council may determine.

(4) In order to be re-registered by the Council, any nursing personnel who has been out of practice for at least three years shall complete clinical re-orientation under supervision at a recognised institution for a period stipulated by the Council.

(5) A person who was registered under the Nurses and Midwives Act immediately prior to the commencement of this Act shall be entitled to be registered under this Act without reapplying, and while entry of the person's name on the appropriate register is pending, the person shall be considered to be duly registered.

No. 11 of 2019

Entitlement on registration.

18. A person registered under this Act shall be entitled to –

(a) have the person's name entered on the Register;

(b) apply for a licence to practise nursing in Guyana; and

(c) use the title "nurse", "midwife", "nursing assistant", "specialist nurse" or any other approved abbreviation against the person's name.

Application for a licence.

19. A person whose name is listed on the Register and who wants to be issued with a licence shall –

(a) apply to the Council in the form and manner determined by the Council;

(b) complete continuing nursing education sessions as stipulated by the Council;

(c) pay the required licence fee; and

(d) meet the licensing requirements under this Act.

Issue of licence.

20. (1) Where the Council is satisfied that an applicant has met the requirements under this Part for the issuance of a licence, the Council may issue a licence to the applicant.

(2) A licence issued under subsection (1) may contain any terms and conditions as the Council may consider necessary.

(3) A licence issued under this section shall remain valid for one year unless suspended or revoked by the Council.

Refusal to issue licence.

21. A licence may be refused where -

(a) satisfactory evidence of continuing education as required by this Act has not been produced; or

(b) the applicant has not complied with any of the provisions under this Act with respect to an application for a licence.

Revocation and suspension of licence.

22. (1) The Council may revoke a licence granted under this Act where a licence holder has -

(a) been convicted for an offence which the Council reasonably believes makes that person unfit to serve as a nursing personnel;

(b) not complied with the provisions of any regulations made under this Act in respect of the use of the licence holder's licence; or

(c) engaged in conduct inimical and prejudicial to the nursing profession.

(2) Where the Council determines after an enquiry that any nursing personnel is suffering from a physical or mental condition that makes the nursing personnel unfit to practise, the Council may suspend or revoke the licence of the nursing personnel, as the case may be, until such time as in the opinion of the Council, the nursing personnel is able to resume practice.

Licence suspended or revoked to be surrendered.

23. (1) Where the Council suspends or revokes the licence of a nursing personnel, the revocation shall take effect from the date the Council may direct and the licence shall be surrendered to the Council within twenty- eight days.

(2) A person who refuses or neglects to give up a revoked or suspended licence commits an offence and is liable on summary conviction to a fine of one hundred and fifty thousand dollars and to imprisonment for three months.

Re-registration after removal from register.

24. Where a licence has been revoked, the former holder of the licence may apply for re-registration after a period of two years from the date of removal of the former holder's name from the Register.

Appeal against suspension, revocation or non-renewal of licence.

25. Where a person is aggrieved by the decision of the Council to revoke, suspend or refuse to renew the person's licence, the person may appeal to a Judge in Chambers and the Judge in giving a decision may make any order as to cost as the Judge considers necessary.

Recovery of fees and costs.

26. A person shall not be allowed to recover in any Court any fees or charges for services rendered unless the person is registered and is the holder of a licence under this Act.

Certificate to be signed by registered nursing personnel.

27. Upon commencement of this Act, no certificate required under any written law to be signed by any nursing personnel shall be valid unless the person signing it is registered and licensed under this Act.

Additional qualifications.

28. The Council may, upon satisfactory evidence of additional qualifications of a holder of a licence registered under this Act, insert in the appropriate register such qualification in substitution for or in addition to the qualifications previously registered.

Appeals.

29. An appeal against any decision made by the Council other than a decision with respect to the entitlement of a person to be registered, shall not lie to a Judge in Chambers.

Registers.

30. (1) The Council shall keep and maintain three registers for nursing personnel as follows -

(a) Nursing Personnel Full Registration Register which shall include all persons eligible to be registered as a nurse, midwife, nursing assistant or specialist nurse;

(b) Nursing Personnel Temporary Registration Register which shall include persons who have been granted temporary registration as a nurse, midwife, nursing assistant or specialist nurse; and

(c) Nursing Personnel with Specialist Registration Register which shall include evidence of specialised training in nursing.

(2) The Council shall cause to be entered on each Register listed in subsection (1), the name of every person entitled to be issued with registration together with the following particulars in respect of each person-

(a) full name and address;

(b) the date registered;

(c) a description and date of the qualification in respect of which the person is being registered and any other certificates, diplomas, or degrees acquired thereafter;

(d) registration number;

(e) sex;

(f) national identification card number or a valid passport number;

(g) school or institution of training;

(h) specialty, if any; and

(i) any additional information deemed necessary for the efficient operation of the Register.

(3) In respect of the Nurses and Midwives Temporary Registration Register, the Council shall, for every person entitled to be issued with temporary registration, include a period of registration.

(4) The Registers under this section shall at all reasonable times be open to inspection at the office of the Council.

(5) The Council may restore to any Register in compliance with this Act, any name removed from the Register.

(6) Where the name of a person is removed from any Register, the Council shall, in writing, request the person to return the person's licence and the person shall comply with that request.

Removal of incorrect or fraudulent entry.

31. The Council shall remove from the Registers any incorrect or fraudulent entry.

Certificate of the Council to be *prima facie* evidence.

32. (1) Where proof of registration or issue of licence is required, the production of a licence showing that the person named on the licence is duly registered or is the holder of a licence, certified under the hand of the Registrar and Chairperson, shall be *prima facie* evidence in any court of law of the registration of the person, or the issuance of a licence to that person.

(2) The production of the original Register shall not be required where a licence under subsection (1) is produced and the licence shall be accepted without proof that the person signing is the Chairperson.

Publication of lists.

33. (1) The Council shall each year cause to be published in the *Gazette* -

(a) by the 31st of March, an alphabetical list of persons who have by the 31st December in the previous year obtained a licence; and

(b) the name of any person, within a reasonable time after the person obtains a licence.

(2) Notwithstanding subsection (1), the Council has the power to publish in the *Gazette* at any time the names of newly registered nursing personnel.

(3) A copy of the *Gazette* containing the list referred to in subsection (1)(a) or the name of the person published pursuant to subsection (1)(b) shall be *prima facie* evidence of the registration on the Register or the issue of a temporary licence to any person published in the *Gazette* and the qualification of the person, and the non-registration of any person who is not published.

Renewal of licence.

34. (1) The Council may, where a licence issued under this Act has expired, renew the licence in the manner and form as may be prescribed from time to time.

(2) An application under subsection (1), shall be accompanied by-

(a) the prescribed fee;

(b) evidence of satisfactory completion of approved continuing education; and

(c) any other evidence of compliance with the requirements for renewal as prescribed by this Act.

(3) Where the Council is satisfied that an application for renewal under subsection (2) has met the requirements, the Council may issue a new licence to the applicant.

(4) A licence issued under subsection (3) is valid for the current year in which it is issued and expires on the 31st December of that year.

(5) Where a nursing personnel has failed to renew the nursing personnel's licence within three months after the date of expiration, the Council may impose a fine of fifty thousand dollars.

PART IV
DISCIPLINE

Disciplinary Committee.

35. (1) For the purpose of this Act, the Nurses and Midwives Disciplinary Committee is established and shall be charged with the duty of upholding standards of professional conduct.

(2) The Disciplinary Committee shall comprise of five members of the Council and one of those members shall be the legal representative.

(3) The Chairperson of the Disciplinary Committee shall be the legal representative and the members of the Committee shall elect another member to be the Deputy Chairperson.

(4) The Council shall cause the names of all members of the Disciplinary Committee as first constituted and every change in the membership to be published in the *Gazette*.

Proceedings of the Disciplinary Committee.

36. (1) The Disciplinary Committee shall meet at any time as may be necessary for the transaction of business, and any Committee meetings shall be held at any place and times and on any days as it thinks fit.

(2) The Chairperson of the Disciplinary Committee, or in the Chairperson's absence the Deputy Chairperson, shall preside at meetings of the Disciplinary Committee.

(3) Any decision of the Disciplinary Committee shall be a nullity where the Chairperson, or the Deputy Chairperson, is absent from the meeting of the Disciplinary Committee.

(4) At any meeting of the Disciplinary Committee, a quorum is constituted where three members are present and decisions shall be by a majority of the members present.

(5) Notwithstanding any vacancy among the members, every decision of the Disciplinary Committee shall be valid.

(6) The members of the Disciplinary Committee shall regard and deal with as secret and confidential, all information relating to the operations of the Committee.

Complaints.

37. (1) A person alleging to be aggrieved by an act of professional misconduct committed by any nursing personnel may make a complaint to the Council in writing, and any complaint shall contain the nature of the allegation with specific information as to date, place and time of the commission of the act or omission, and any member of the Council may make a similar complaint to the Council in respect of allegations concerning -

(a) any professional misconduct including misconduct which, in pursuance of rules made by the Disciplinary Committee under section 38 is to be treated as grave professional misconduct; or

(b) any criminal offence.

(2) A complaint under subsection (1) shall be heard by the Disciplinary Committee in accordance with rules made under section 38.

Rules of procedure.

38. (1) The Disciplinary Committee shall, subject to the approval of the Council, make rules regulating the presentation, hearing and determination of applications received by the Committee under this Act.

(2) For the purpose of any application made to it under this Act, the Disciplinary Committee shall have the powers of the High Court to summon witnesses, and to call for the production of relevant

documentary evidence in hard and electronic form and examine witnesses and parties concerned on oath.

(3) Notwithstanding the generality of subsection (1), the Council and Disciplinary Committee may make rules for-

(a) prescribing standards of professional etiquette and professional conduct of nursing personnel and may by such rules direct that any specified breach of the rules shall constitute grave professional misconduct;

(b) the removal of the name of the nursing personnel from the Register;

(c) the suspension of a licence for a period not exceeding two years;

(d) issuing of a reprimand as it thinks fit; and

(e) stipulating remedial training as it thinks fit.

Report of the Disciplinary Committee.

39. Upon completion of its investigation, the Disciplinary Committee shall submit a written report to the Council within a reasonable time after the investigation has completed, and may recommend the manner in which the complaint shall be dealt with.

Consideration of report of the Disciplinary Committee by Court.

40. Where an appeal lies against any decision by the Council, the report of the Disciplinary Committee shall be presented to the Court upon request in writing.

Disciplinary action.

41. Where any nursing personnel who is the holder of a temporary licence has, either before or after that nursing personnel is registered or licensed under this Act, been convicted of an offence punishable on indictment, or is guilty of grave professional misconduct the nursing personnel shall be liable to be dealt with in the manner set out in this Part.

Suspension or removal of name from a register to be published.

42. (1) Where the Council has decided to suspend a licence or remove the name of a licence holder from a register, the suspension or removal shall be published in the *Gazette*.

(2) Where the name of a licence holder has been removed from a register, a licence issued by the Council shall cease to be valid.

(3) Pursuant to subsection (1), a licence shall cease to be valid for the period of such suspension.

Voluntary removal of name from register.

43. A person registered under this Act may apply in writing to the Council for the removal of the person's name from a register.

PART V
OFFENCES AND PENALTIES

Practising without being registered and a valid licence holder.

44. Subject to section 34(5), any person who practises-

(a) nursing and midwifery in Guyana without being registered and holding a valid licence; or

(b) any specialty of nursing without being registered as a specialist nurse,

commits an offence and shall be liable on summary conviction to a fine of five hundred thousand dollars and imprisonment to twelve months.

Fraudulent representation, falsification of registers, etc.

45. Any person who-

(a) fraudulently procures or attempts to procure the person's or any other person's registration under this Act by making or producing or causing to be

made or produced, any false or fraudulent representation or declaration either orally or in writing;

(b) fraudulently makes, causes or permits to be made-

(i) any false or incorrect entry or copy of an entry in the Register; or

(ii) any alteration in any entry or copy of an entry on the Register;

(c) not being a nursing personnel registered under this Act -

(i) practises nursing and midwifery and demands or receives a fee, gratuity or remuneration in Guyana;

(ii) pretends to be a registered nursing personnel; or

(iii) makes use of the name or title of nursing personnel or any other name, title, addition, designation or description implying or calculated to lead persons to believe that the person is a registered nursing personnel licensed under this Act;

(d) knowingly permits any person who is not a registered nursing personnel to practise as a nursing personnel in the person's health facility,

commits an offence and shall be liable on summary conviction to a fine of five hundred thousand dollars and imprisonment for twelve months.

Advertisement or holding out by unauthorised persons.

46. (1) Where a person who is not registered under this Act directly or indirectly by advertisement, sign, written or oral statement, alleges or implies, states or holds himself or herself out as being a

nursing personnel, that person commits an offence and is liable on summary conviction to a fine of two hundred thousand dollars and imprisonment for six months.

(2) Subsection (1) shall not apply to -

(a) any person who is registered or licensed under any other Act, and under the Council, performs or provides any service which the person is authorised or entitled to perform thereunder; or

(b) any person performing any service under supervision of any nursing personnel or other person so registered or licensed where permitted or authorised by this or any other law.

Professional misconduct.

47. Where any registered nursing personnel has been found guilty of professional misconduct, the Council may, in addition to any other penalty prescribed under this Act, impose a fine not exceeding one hundred thousand dollars.

PART VI
MISCELLANEOUS

Employment of officers and employees of the Council.

48. The Council may employ a suitably qualified and fit and proper person to be the Registrar of the Council, and any other officers as the Council may determine and the Registrar shall take instructions from and act on behalf of the Council as authorised.

Funds of the Council.

49. (1) The funds of the Council shall include-

(a) moneys appropriated by Parliament for the purpose of the Council; and

(b) moneys paid to the Council in respect of fees due under this Act.

(2) Any expenses incurred by the Council in giving effect to this Act, including expenses in connection with examinations, travelling and subsistence allowance to members of the Council shall be defrayed out of the sums received by the Council under this section.

Accounts of the Council.

50. The accounts of the Council shall be audited yearly by the Office of the Auditor General.

Regulations.

51. The Minister may make regulations generally for giving effect to this Act and in particular for -

(a) prescribing forms required to be prescribed under this Act;

(b) prescribing fees required to be prescribed under this Act;

(c) regulating the conditions for the practice of nursing in Guyana;

(d) determining the professional qualification and experience required for an applicant for registration;

(e) tabling a list of offences;

(f) prescribing the procedures with respect to disciplinary proceedings against nursing personnel; and

(g) establishing and enforcing standards of practice for nursing personnel and general fitness to practise nursing in Guyana.

Repeal.
No. 11 of 2019

52. The Nurses and Midwives Act is repealed.

Transitional.

53. Pending the establishment of the Council in accordance with section 3, the Council shall consist of those persons who immediately prior to the commencement of this Act, were members of the Council under the Nurses and Midwives Act.

No. 11 of 2019

Passed by the National Assembly on 17th May, 2022.

S.E. Isaacs,

Clerk of the National Assembly

(Bill No. 6/2022)