

Rwanda

## Law on the Organisation, Functioning and Competence of the Medical and Dental Council

Law 44 of 2012

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# Law on the Organisation, Functioning and Competence of the Medical and Dental Council

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**Assented to on 14 January 2013**

**Commenced on 14 January 2013**

*[This is the version of this document from 14 January 2013.]*

**We, KAGAME Paul,**

President of the Republic;

**THE PARLIAMENT HAS ADOPTED AND WE SANCTION, PROMULGATE THE FOLLOWING LAW AND ORDER IT BE PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF RWANDA**

### **THE PARLIAMENT:**

The Chamber of Deputies, in its session of 04 December, 2012;

Pursuant to the Constitution of the Republic of Rwanda of 04 June 2003, as amended to date, especially in Articles 41, 62, 66, 67, 90, 92, 93, 108 and 201;

Pursuant to Organic Law n° 01/2012/OL of 02/05/2012 instituting the Penal Code especially in Articles 283 and 284;

Pursuant to Law n° 10/98 of 28/10/1998 relating to the practice of the Art of Healing, especially in Articles 34 and 35;

Having reviewed Law n° 30/2001 of 12/06/2001 on the organization, functioning and scope of activities of the Medical Council;

### **ADOPTS:**

## **Chapter One General provisions**

### **Article One – Purpose of this Law**

This Law determines the organisation, functioning and competence of the Medical and Dental Council.

### **Article 2 – Definitions of terms**

For the purpose of this Law, the following terms shall have the following meanings:

- 1° a medical doctor: every person qualified to practice the medical art after obtaining a Bachelor's Degree in Medicine;
- 2° a dentist: every person qualified to practice the dental medicine after obtaining a Bachelor's Degree in dentistry;
- 3° the Council: the Council of Medical doctors and Dentists.

### **Article 3 – Mission of the Council**

The Council shall be responsible for the compliance with the rules, honor and dignity of the medical profession.

The Council shall ensure compliance with the principles of morality, integrity and dedication essential to the practice of the medical profession. It shall also ensure that all its members comply with their professional requirements and the laws and regulations governing the medical profession.

### **Article 4 – Competence of the Council**

The Council shall have the following competence:

- 1° to establish rules determining the skills and capacity requirements for each category to perform a medical profession;
- 2° to grant and revoke the authorization to perform a medical or dental profession;
- 3° to take disciplinary measures against medical doctors and dentists.

### **Article 5 – Autonomy of the Council**

The Council shall have the legal personality, financial and administrative autonomy.

### **Article 6 – Head Office of the Council**

The Head office of the Council shall be located in Kigali City, the Capital of the Republic of Rwanda. It may be transferred to any other location in the Republic of Rwanda when deemed necessary upon decision of the National Council Board.

## **Chapter II Organisation of the Council**

### **Article 7 – Organs of the Council**

The Council shall have the following three (3) organs:

- 1° the National Council Board;
- 2° the Bureau of the National Council Board;
- 3° Technical Committees.

### **Article 8 – National Council Board**

The National Council Board shall be the supreme organ of the Council.

### **Article 9 – Composition of the National Council Board**

Members of the National Council Board shall be elected by their peers in each Province and in the City of Kigali on the basis of the number of medical doctors and dentists registered in such an area.

The internal rules and regulation of the Council shall provide for modalities for their election.

## **Article 10 – Term of office of members of the National Council Board**

Members of the National Council Board shall serve for a four (4) year term of office renewable only once (1).

Only medical doctors and dentists whose names have been registered on the register of the Council for a period of at least three (3) years at the time of elections shall be eligible as members of the National Council Board.

## **Article 11 – Grounds for termination of membership in the National Council Board**

A person shall cease to be member of the National Council Board if he/she:

- 1° concludes his/her term of office;
- 2° resigns in writing;
- 3° is no longer able to perform his/ her duties due to physical or mental disability duly confirmed by an authorized medical doctor;
- 4° is definitively sentenced to a term of imprisonment equal to or exceeding six (6) months without suspension;
- 5° misses three (3) consecutive meetings of the National Council Board in a year without justified reasons;
- 6° jeopardizes the interests of the Council;
- 7° demonstrates behaviors inconsistent with his/her duties;
- 8° no longer meets the requirements considered at the time of his/her election in the National Council Board;
- 9° confesses and pleads guilty of the crime of genocide;
- 10° is convicted of the crime of genocide ideology;
- 11° dies.

## **Article 12 – Replacement of a member of the National Council Board**

When a member of the National Council Board ceases to be member due to the reasons provided in Article 11 of this Law, he/she shall be replaced within three (3) months under the same conditions as those under which he/she acquired membership.

When a member of the National Council Board ceases to be member before the expiry of his/her term, he/she shall be replaced for the remainder of his/her term if such a remainder is more than six (6) months.

## **Article 13 – Bureau of the National Council Board**

The Bureau of the National Council Board shall be comprised of seven (7) members including a Chairperson, a Deputy Chairperson, a Secretary, a Treasurer and three (3) Advisors.

Modalities for their election shall be determined by the internal rules and regulations of the Council.

## **Article 14 – Technical Committees**

The National Council Board shall be assisted by technical Committees in carrying out its responsibilities.

The Organization and functioning of such committees shall be determined by the internal rules and regulations of the Council.

## **Article 15 – Legal representation**

The Council shall carry out its mission through its organs.

In legal proceedings and other acts in connection with its mission, the Council shall be represented by the Chairperson of the National Council Board, and in case of his/her absence, by the Deputy-Chairperson.

## **Chapter III**

### **Competence and responsibilities of the Council's organs**

#### **Section One – Competence and responsibilities of the Council's organs**

### **Article 16 – Competence of the National Council Board**

The National Council Board shall establish internal rules and regulations and general principles relating to morality, honor, confidentiality, dignity and devotion essential to the practice of the profession and which constitute the code of medical ethics.

The National Council Board shall serve as an interlocutor with public and private organs with regards to all matters relating to medical profession.

The National Council Board shall collaborate with all other organs involved in medical profession.

### **Article 17 – Responsibilities of the National Council Board**

Without prejudice to the provisions of Article 3 of this Law, the National Council Board shall fulfill in particular, the following responsibilities:

- 1° to participate in the process of defining the quality of a medical doctor and dentist services and in determining standards of medical education at the university level in Rwanda;
- 2° to set up regulations on the minimum knowledge and skills required for each category of any medical doctor or dentist;
- 3° to grant and revoke the authorisation to practice medicine and dentistry;
- 4° to approve the internal rules and regulations of the Council;
- 5° to decide on the annual registration fee;
- 6° to determine the conditions for organizing elections, the procedure of appeal and dispute settlement;
- 7° to serve as an appellate body for decisions made by the Bureau of the National Council Board;
- 8° to approve the sitting allowances and functioning fees of the organs of the Council;
- 9° to approve strategic and annual action plans;
- 10° to approve the budget;
- 11° to support all activities and initiatives designated to promote the medical services rendered to the population of Rwanda.

### **Article 18 – Responsibilities of the Bureau of the National Council Board**

The Bureau of the National Council Board shall have the following responsibilities:

- 1° to do its utmost to ensure the smooth running of the activities of the Council and those of its committees;



- 2° to update the register of members of the Council;
- 3° to implement the decisions, regulations and instructions of the National Council Board;
- 4° to put an end to any act, contract or statutes to which a medical doctor or a dentist is a party but which include clauses that undermine the principles of medical ethics;
- 5° to report to relevant authorities acts of illegal practices of the profession it becomes aware of and impose disciplinary measures accordingly;
- 6° to impose disciplinary sanctions for professional misconduct committed by a doctor or a dentist as well as serious misconduct committed outside the course of professional practice but that are likely to undermine the honour and dignity of the medical profession;
- 7° to enforce any disciplinary measure taken by organs of the Council responsible for the ethics of medical doctors and dentists;
- 8° to hire and dismiss the staff of the Council, and define their duties as well as their remunerations in accordance with the relevant laws;
- 9° to perform any other duty as may be deemed necessary by the National Council Board.

## **Section 2 – Training and knowledge evaluation**

### **Article 19 – Training**

The National Council Board shall put in place a training system for each medical doctor and dentist to enhance knowledge on an ongoing basis.

Each medical doctor or dentist shall enhance his/her knowledge and be subject to a knowledge and performance assessment.

### **Article 20 – Knowledge assessment**

The National Council Board shall put in place a knowledge assessment system and organs responsible for conducting such assessment and monitor its conduct.

The internal rules and regulations of the Council shall determine modalities for conducting the assessment.

Each medical doctor or dentist must, each year, obtain the minimum score as determined by the National Council Board for him/her to be duly authorized to practice the medical services.

### **Article 21 – Post-knowledge assessment**

When a medical doctor or a dentist fails to obtain the required score, the National Council Board shall take one or more of the following measures:

- 1° to subject him/her to a specific ongoing training programme;
- 2° to require him/her to sit for a written examination;
- 3° to require him/her to work under the supervision of another medical doctor or dentist or impose some restrictions;
- 4° to remove his/her name from the register of members of the Council.

## **Chapter IV**

### **Functioning of the Council**

#### **Article 22 – Chairperson of the National Council Board**

The activities of the National Council Board shall be led by the Chairperson of the National Council Board and, in his/her absence, by the Deputy-Chairperson.

#### **Article 23 – Meetings of the National Council Board**

Modalities for preparing the meetings of the National Council Board, procedures for taking decisions and sanctions for absence from meetings shall be determined by the internal rules and regulations of the Council.

#### **Article 24 – Invitation of a resource person to the meetings of the National Council Board**

In order to carry out its responsibilities, the National Council Board may invite to its meetings any person whose opinion may be useful for the consideration of a particular item on the agenda. The invited person shall not participate in vote or discussion on other items on the agenda.

#### **Article 25 – Transmission of the register of the medical doctors and dentists members of the Council**

Before 31<sup>st</sup> July of each year, the Bureau of the National Council Board shall transmit to the Minister in charge of Health, the register of members of the Council drawn up on the 30<sup>th</sup> of June of the same year.

Any deletion or removal of a medical doctor or a dentist from the register shall be notified to the authority referred to above.

#### **Article 26 – Permanent Secretariat**

For the Council to carry out its mission, the Bureau of the National Council Board shall be assisted in its daily activities by the Permanent Secretariat.

The National Council Board may recruit other staff to support the Permanent Secretariat.

Responsibilities and functioning of the Permanent Secretariat of the Council shall be determined by the internal rules and regulations of the Council.

## **Chapter V**

### **Code of Ethics and disciplinary actions**

#### **Section One – Code of Ethics**

#### **Article 27 – Disciplinary measures and organs with the power to impose them**

Disciplinary measures on medical doctors and dentists which can be taken by the organs of the Council are as follows:

- 1° warning;
- 2° reprimand;

- 3° temporary suspension of practice for a period not exceeding six (6) months;
- 4° removal from the register of members of the Council.

Disciplinary measures referred to in items 1° and 2° of Paragraph One of this Article shall be taken by the Bureau of the National Council Board for light faults that do not endanger the life of a patient or the dignity of the medical profession.

Disciplinary measure referred to in item 3° of Paragraph One of this Article shall be taken by the Bureau of the National Council Board for faults which may put at risk the life of the patient or the dignity of the profession; and faults of the third order must be communicated to the Minister of Health.

The disciplinary measure referred to in item 4° of Paragraph One of this Article shall be taken by the Bureau of the National Council Board for faults that are not seriously compatible with the profession of a medical doctor or a dentist.

Disciplinary measure of fourth order shall be communicated to the public. Serious faults and their disciplinary measures shall be specified in the internal rules and regulations of the Council.

Before any disciplinary measure is taken against a medical doctor or a dentist, he/she must be given an opportunity to be heard by the organ with the power to impose such a measure against him/her.

### **Article 28 – Consequences of temporary suspension**

A medical doctor or a dentist who is subject to a disciplinary measure of temporary suspension of practice of medical profession shall be deprived of the right to vote and to be elected in the organs of the Council for a period of four (4) years.

### **Article 29 – Automatic removal from office**

A medical doctor or a dentist elected on any organ of the Council shall be subject to automatic removal from office if he/she:

- 1° was subject to a disciplinary measure of temporary suspension;
- 2° was removed from the register of members of the Council;
- 3° was definitively sentenced to a term of an imprisonment equal to or exceeding six (6) months.

In order to take a decision on removal of an elected member to one of the organs of the Council, the National Council Board shall act on its own initiative or upon request by one of its members.

### **Article 30 – Non discrimination**

No disciplinary measure shall be imposed against a medical doctor or a dentist by the organs of the Council on the ground of any form of discrimination.

### **Article 31 – Professional secrecy**

The members of the organs of the Council shall be bound by professional secrecy for any information gained from their duties or they have acquired in the course of performance of their duties even after they cease to perform such duties.

The provisions of Paragraph One of this Article shall apply also to any person who, in whatever capacity, participates in the functioning of the Council.

The breach of professional secrecy shall be punishable in accordance with the Penal Code.

### **Article 32 – Prosecution of a medical doctor or dentist practicing without being registered in the register of the Council or while on the suspension**

Any medical doctor or dentist who practices his/her profession without being registered in the register of the Council as well as one who practices while he/she is subject to temporary or permanent suspension shall be brought before the competent courts of law.

The provisions of Paragraph One of this Article shall apply also to any employer of a medical doctor or a dentist referred to in that Paragraph.

### **Article 33 – Disciplinary proceedings**

Disciplinary proceedings against a medical doctor or a dentist shall not prevent:

- 1° legal proceedings in criminal courts;
- 2° legal proceedings before civil courts;
- 3° disciplinary proceedings before the superior in the administrative hierarchy.

## **Chapter VI Disciplinary procedures and appeal**

### **Article 34 – Disciplinary action by the National Council Board**

The National Council Board shall institute the disciplinary action against a medical doctor or a dentist on its own initiative or upon request by any interested person.

### **Article 35 – Temporary suspension of a medical doctor or dentist by the Bureau of the National Council Board**

Pending the National Council Board decision within a period not exceeding one (1) month, the Bureau of the National Council Board may temporarily suspend a medical doctor or a dentist suspected of having committed misconduct punishable by temporary suspension or removal from the register of the members of the Council.

### **Article 36 – Measure taken against a medical doctor or a dentist *in absentia***

Any medical doctor or dentist against whom a measure was taken *in absentia* may file an opposition to such a measure within fifteen (15) days of notification.

In that situation, the case is again referred to the Bureau of the National Council Board. If he/she is not satisfied with the decision taken, he/she shall appeal against it before the National Council Board.

When the person who has filed an opposition fails to appear once again without reasonable grounds, he/she can no longer file a new opposition.

### **Article 37 – Appeal**

The appeal shall be made in writing and sent to the Permanent Secretariat of the National Council Board. Such an appeal may be made by the concerned medical doctor or dentist, within thirty (30) days of notification of the decision that is being appealed against.

The appeal against a measure shall lead to the suspension of its enforcement.

The National Council Board shall consider the case and carry out further investigations.

The decision of the National Council Board shall be notified to the concerned person by mail with acknowledgement of receipt.

### **Article 38 – Aggravation of the sanctions**

The National Council Board shall not aggravate the sanction imposed by the Bureau of the National Council Board or apply a sanction where the Bureau has not imposed any, unless it is approved by three quarter (3/4) of those who decided on the issue.

The enforcement of a final disciplinary sanction shall begin at the expiry of thirty (30) days reserved for an appeal as from the notification of the decision to the medical doctor or the dentist.

Any decision relating to the removal from the register of the Council shall indicate the date from which it takes effect.

A decision of temporary suspension or removal from the register of members of the Council against a medical doctor or dentist shall be communicated to the public and the Minister in charge of health.

The implementation of such a decision is provided under the internal rules and regulations.

## **Chapter VII Property of the Council**

### **Article 39 – Sources of the property**

The property of the Council shall be comprised of movable and immovable assets.

The property of the Council shall come from the following:

- 1° members' contributions;
- 2° subsidies, donations and bequest;
- 3° investments of the Council;
- 4° proceeds from services rendered by the Council.

## **Chapter VIII Miscellaneous and final provisions**

### **Article 40 – Code of Ethics**

The Code of Ethics of members of the Council shall be determined by an Order of the Minister in charge of health.

### **Article 41 – Drafting, consideration and adoption of this Law**

This Law was drafted in French, considered and adopted in Kinyarwanda.

### **Article 42 – Repealing provision**

The Law n° 30/2001 of 12/06/2001 on the organization, functioning and scope of activities of the Medical Council and all previous legal provisions contrary to this Law are hereby repealed.

### **Article 43 – Commencement**

This Law shall come into force on the date of its publication in the Official *Gazette* of the Republic of Rwanda.