

P.L. 2010-38

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AN
ACT

to provide for licensing of health professionals, to establish a Board and to repeal certain provisions of the Health Services Act, 1983 and the Nursing Practice Act, 1995.

BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS:

Section 1. **Short title.**

This Act may be cited as the Health Profession Licensing Act, 2009.

Section 2. **Definitions.**

In this Act, unless the context otherwise requires:

(a) **“Approved school”** means a learning institution approved by the Board of Health Professions or other board as meeting the minimum requirements established by the Board for the preparation of health professionals;

(b) **“Board”** means the Marshall Islands Board of Health Professions established under Section 3 of this Act;

(c) **“Ex Officio”** means a public official who attends Board meetings to sit as advisory member by reason of their office;

(d) **“Health Profession”** means any profession practiced by a health professional;

(e) **“Health professional”** means any health professional with titles listed in Section 22;

(f) **“License”** means a valid document permitting the practice of a health profession as specified under this Act;

1 (g) “**Licensee**” means person to whom the license is issued or renewed by Board, or
2 the person at whose request the license is issued or renewed;

3 (h) “ **Minister of Health**” means the Minister of Health of the Republic of the
4 Marshall Islands;

5 (i) “**Other board**” means a health professional regulatory agency comparable to the
6 Board establish under this Act, and approved by the Board in any Pacific Island
7 Health Officers Association, or by other state, territory, commonwealth, or a foreign
8 country;

9 (j) “**Secretary**” means the Secretary of Health responsible for health services.
10

11 Section 3. **Establishment of Board of Health Professions.**

12 There shall establish within the Ministry of Health and Environment, the Marshall Islands
13 Board of Health Professions hereinafter refer to as the Board.
14

15 Section 4. **Functions and Duties of Board.**

16 (1) The functions and duties of the Board are to:

17 (a) Examine, issue, and renew the licenses of health professionals;

18 (b) Enforce qualifications for licensing of health professionals;

19 (c) Regulate health professionals to practice with a licence;

20 (d) Develop and enforce reasonable standards for health professional;

21 (e) Collect data regarding practices of health professions;

22 (f) Implement a disciplinary process;

1 (g) Issue limited, temporary or provisional licenses to health professional subject to
2 restricted terms and conditions that the Board may impose;

3 (h) notify all license and certificate holders about changes in laws and regulation
4 regarding health professions practice;

5 (i) Submit annual reports and collect information upon request, to the Minister of Health
6 and the Secretary of Health;

7 (j) Maintain records of the Boards proceedings;

8 (k) Provide consultation and conduct conferences, forums, studies and research on health
9 professional practices and education;

10 (l) Join other organizations that develop or regulate licensing and certification of
11 examinations,

12 (m) promote improvement of standards of the practice, for the protection of the public
13 health, safety, and welfare of the various health professions;

14 (n) enforce certain health professionals to obtain malpractice insurance prior to obtaining
15 a license;

16 (o) create by-laws and promulgate regulations, and

17 (p) any other duties and functions which are consistent with the provisions of this Act.

18 (2) The Board shall advise the Secretary of Health on any of the matters encompassed under
19 this Act and on any other matter that may be referred to the Board by the Minister of Health.

20 (3) This Act shall not be construed to require the Board to report violations of the provisions
21 of the Act to the Minister of Health when, in the Board's opinion and in the public interest, a
22 written notice of warning is to be served on the individual who violates the provisions of this
23 Act.

1 Section 5. **Composition of Board.**

2 (1) The Board shall consist of 5 members, appointed by the Cabinet as recommended by the
3 Minister of Health.

4 (2) The Secretary will submit nominations to the Minister who will recommend the nominee
5 to the Cabinet for appointment.

6 (3) The five members shall be nominated as follows:

7 (a) One physician licensed to practice in the Republic of the Marshall Islands from a
8 list of three nominees.

9 (b) One dentist licensed to practice in the Republic of the Marshall Islands from a list
10 of three nominees.

11 (c) Two nurses licensed to practice in the Republic of the Marshall Islands from a list
12 of three nominees.

13 (d) One allied health practitioner licensed to practice in the Republic of the Marshall
14 Islands from a list of three nominees.

15 (e) Ex officio members may be appointed by the Minister upon recommendation by
16 the Secretary of Health. An ex officio member may sit only as an advisory capacity
17 and may not vote on any matter.

18
19 Section 6. **Terms of office and qualifications.**

20 (1) Appointments shall be for a term of four years.

21 (2) Each member of the Board shall be a citizen or resident of the Republic.

22 (3) Each member of the Board must have a valid licence to practice as health profession in
23 the Republic of the Marshall Islands.

1 Section 7. **Appointment, vacancies, removal, suspensions.**

2 Appointment, vacancies, removal and suspension of members shall be made as follows:

3 (1) The Secretary shall circulate a list of names of nominees to serve as members of the
4 Board. A nominee who consents to serve as a member of the Board shall place his or her
5 signature opposite his or her name on the list;

6 (2) Subject to Section 5(2) of this Act, the Secretary shall submit nominations to the Minister
7 of Health, who will recommend the nominations for appointment by the Cabinet;

8 (3) Any vacancy in the membership on the Board shall be filled for the unexpired term in the
9 same manner as provided for other Board members;

10 (4) If a successor has not been appointed when the term of a member expires, the term of the
11 member shall be extended until a successor is appointed; provided that under no circumstances
12 may an extension last longer than 60 days;

13 (5) The powers of the Board shall not be affected by reason of a vacancy or vacancies in the
14 membership of the Board, except when there are insufficient Board members to constitute a
15 quorum of majority of 3;

16 (6) If a Board member changes his or her area of professional practice so that the Board's
17 composition no longer complies with the provisions of this Act, that Board member shall be
18 deemed to have resigned from the Board as of the date of his or her change of practice;

19 (7) The Secretary may by motion or recommendations of the Board, supported by
20 documentary evidence, submit to the Minister of Health and Cabinet, removal of any member of
21 the Board on the grounds of neglect of duty, incompetence, unprofessional or disreputable
22 conduct, or conviction of a felony or misdemeanor; and

1 (8) Where any criminal or disciplinary investigation or proceeding is commenced against a
2 Board member, the Secretary may suspend the member from the Board until the conclusion of
3 the investigation or proceeding.

4 Section 8: **Meetings**

5 The Board shall meet at least twice yearly and may hold other special meetings during a
6 year as may be necessary to conduct its business.

7 Section 9: **Compensation of members.**

8 The members of the Board shall not be entitled to receive any salary, remuneration, or
9 other compensation for their services except that they may be reimbursed for necessary
10 expenses incurred in the performance of official duties. At the discretion of the Secretary
11 of Health, travel and per diem may be authorized for those members who reside apart
12 from the location of a Board meeting.

13 Section 10: **Immunity.**

- 14 1. All members of the Board shall have immunity from individual civil liability for acts
15 or omissions committed while acting within the course and scope of their duties as
16 Board members.
- 17 2. Any professional review committee authorized by the Board shall be immune from
18 suit in any civil action taken by a licensee who is the subject of a professional review
19 proceeding.
- 20 3. Subject to the Evidence Act, the testimony of any witness appearing before the Board
21 shall be privileged from discovery and may not be used in any subsequent civil or
22 criminal proceeding. At the discretion of the Board, the identity and testimony of any
23 witness shall remain the confidential information of the Board.

1 Section 11. **Administrative support.**

2 The Secretary shall provide such administrative support to the Board as may be necessary
3 for the due and efficient conduct of its affairs.

4 Section 12. **Advisory committee.**

5 The board may appoint advisory committees to assist the board in the implementation of
6 this Act. Members of advisory committees shall not be entitled to receive any salary,
7 remuneration, or other compensation for their services except that they may be
8 reimbursed for necessary expenses incurred in the performance of official duties. At the
9 discretion of the Secretary of Health, travel and per diem may be authorized for those
10 members who must travel from off-island to attend to Board business.

11 Section 13. **License required; qualifications of applicants.**

- 12 1. No person shall practice a health profession in Republic of the Marshall Islands unless
13 that person holds a valid license issued by the Board or is permitted under this Act.
- 14 2. Any person who holds a valid license to practice a health profession in Republic of the
15 Marshall Islands on the effective date of this Act shall be deemed to be licensed under the
16 provisions of this Act, and shall be eligible for renewal of such license under the
17 conditions and standards prescribed in the Act and the regulations.

18 Section 14. **Standards for licensing Health Professionals.**

- 19 1. The Board shall establish criteria and standards for licensing of health professionals.
- 20 2. The Board shall publish those standards in the regulations.

21 Section 15. **Renewal of license.**

- 22 1. The Board shall issue licenses for a maximum duration of two (2) years.
- 23 2. The Board shall establish a schedule of fees for renewal of licenses in the regulations.

1 3. The Board shall establish criteria and standards for renewal of licence health and shall
2 publish those criteria and standards in the regulations.

3 4. The Board shall issue short-term licenses to medical teams providing health care services
4 to the people of the Republic for a period of week or a month.

5 5. Any medical team applying for a short time license shall submit credentials to the
6 Secretary of Health and will be reviewed and approved by the Board.

7 Section 16. **Inactive status.**

8 1. Upon written request to the Board, a health professional in good standing may cause his
9 or her license to be placed on an inactive list, and such licensee may not practice during
10 the time the license is inactive.

11 2. No renewal fee shall be required during the period of inactivity. If an inactive licensee
12 desires to resume practice, the licensee must meet the criteria for competency as
13 established in the regulation.

14 Section 17. **Reinstatement of lapsed licenses.**

15 A licensee, whose license is lapsed or expired, may apply for reinstatement according to
16 the Boards regulations.

17 Section 18. **Authority.**

18 1. The Board shall have the power to refuse the issuance or renewal a license; to suspend,
19 revoke, restrict, or place any condition upon any license; to place on probation, or to
20 reprimand a license for any of the reasons set forth below.

21 2. The Board may take such disciplinary action pursuant to its regulations when it is
22 proven that a licensee or applicant has violated the terms of this Act or Regulations
23 made under this Act.

1 Section 19. **Establish fees.**

- 2 1. The Board is authorized to establish appropriate fees for licensing by examination, re-
- 3 examination, endorsement, or reciprocity and such other fees and fines as the Board
- 4 determines necessary as designate in a fee schedule in the regulations.
- 5 2. The fees and fines collected under this Section and Section 28 of this Act shall be
- 6 deposited into an account for use by the Board in conducting its activities.

7 Section 20. **Duties of licensees**

8 (1) A health professional who holds a valid license shall;

9 (a) Provide information upon request by the Board, enabling the Board to perform its

10 duties in regulating and controlling health professions. Failure to provide the

11 requested information may result in non-renewal, suspension, or revocation of the

12 health professional's license to practice.

13 (b) Submit a physical or mental examination by a designated physician when directed in

14 writing by the Secretary of Health; provided, that the Secretary of Health may only

15 direct a mental or physical examination after the Secretary of Health receives a

16 written recommendation from the Board.

17 (c) Subject to subsection (1)(b) of this Section, the Board may:

18 (i) if requested by the licensee, designate the licensee a physician for an

19 independent medical examination. This request shall not constitute an admission

20 of any allegation relating to such cause.

21 (ii) waive all objections by the licensee as to admissibility of the examining

22 physician's testimony or examination reports at any Board proceeding on the

23 grounds that they constitute a privileged communication.

(iii) not use medical testimony or examination reports against a health professional in any non-Board proceeding and shall be confidential. At reasonable intervals, the health professional shall be afforded an opportunity to demonstrate that he or she can resume the competent practice of his or her profession with reasonable skill and safety to patients.

(iv) base its determination on criteria set in the regulations and make recommendations to the Secretary of Health that a licensee required to submit to a mental or physical examination.

(d) Report to the Board any acts or omissions committed by the health professional as grounds for disciplinary action as are set forth in this Act.

(e) Report to the Board every adverse judgment in a professional or occupational malpractice action to which the licensee is a party, and every settlement of a claim against the licensee's alleging malpractice.

(f) Submit a complete application for license renewal with any documents and fees as may be required for re-licensure by the Board, before expiration of the professional's current license to practice. Failure of the Board to remind the professional in advance of the date of expiration shall not constitute adequate grounds for the professional to fail to renew his/her license on time.

Section 21. Titles and abbreviations.

Any person who holds a valid license to practice a health profession in Republic of the Marshall Islands shall have the right to use the following titles or abbreviations as part of provision of services.

(1) Physicians

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- 1 (A) M.D. (Doctor of Medicine)
 - 2 (B) M.O. (Medical Officer)
 - 3 (C) D.O. Doctor of Osteopathy
 - 4 (D) M.B.B..S. Bachelor of Medicine and Bachelor of Surgery)
 - 5 (E) D.C.H.M.S.(Diploma of Community Health, Medicine, & Surgery)

6 (2) Dentistry

- 7 (A) D.M.D. (Doctor of Medicine in Dentistry)
- 8 (B) D.D.S (Doctor of Dental Surgery)
- 9 (C) D.A. (Dental Assistant)
- 10 (D) D.N. (Dental Nurse)
- 11 (E) D.T. (Dental therapist)
- 12 (F) B.D.S (Bachelor of Dental Surgery)
- 13 (G) B.D.Sc (Bachelor of Dental Science)

14 (3) Nurses

- 15 (A) R.N. (Register Nurse)
- 16 (B) L.P.N. (Licensed practical Nurse)
- 17 (C) A.N.P. (Advance Nurse Practitioner)
- 18 (D) C.N.A. (Certified Nurse Anesthetist)
- 19 (E) C.N.M. (Certified Nurse Midwife)
- 20 (F) N.A. (Nursing Assistant)
- 21 (G) N.P. (Nurse Practitioner)
- 22 (H) O.R.T. (Operating Room Technicians)

23 (4) Behavioral Health Professionals

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- 1 (A) Ph.D. (Clinical Psychologist)
- 2 (B) M.A.,M.S. (counselor)
- 3 (C) B.S.W.,B.S.,B.A.,M.S.W.,M.S.,Ph.D.,L.C.S.W. (Social worker)
- 4 (D) Certified Addictions Counselor
- 5 (E) Psychiatric Technician
- 6 (5) Physician Assistant
- 7 (A) P.A. ((Physician Assistant)
- 8 (B) Medex (Medex)
- 9 (C) A.M.O. (Assistant Medical Officer)
- 10 (D) Health Assistants
- 11 (E) Community Health Workers
- 12 (6) Pharmacy Professionals
- 13 (A) R.P. (Pharmacist)
- 14 (B) Pharmacy Technologist
- 15 (C) Pharmacy Technician
- 16 (7) Laboratory Professionals
- 17 (A) Laboratory Professionals
- 18 (B) Laboratory Technician
- 19 (8) X-Ray Professionals
- 20 (A) X-Ray Technologist
- 21 (B) X-Ray Technician
- 22 (9) Sanitarian
- 23 (10) Therapists

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- 1 (A) P.T. (Physiotherapist)
 - 2 (B) O.T. (Occupational Therapist)
 - 3 (C) M.T. (Music Therapist)
 - 4 (D) Massage Therapist
 - 5 (11) Acupuncturists
 - 6 (A) C.A. (Certified Acupuncturist)
 - 7 (B) Lic.At. (Licensed Acupuncturist)
 - 8 (12) R.D. (Registered Dietitian)
 - 9 (13) Veterinarians
 - 10 (A) Veterinary Technicians
 - 11 (14) Other medical professions as set forth in regulations.

12 The various categories of specialists, titles, and abbreviations shall be designated by the
13 Board in its regulations.

14 **Section 22. Approval of health professional education programs.**

- 15 1. The Board shall approve the establishment, conduct of, and standards for health
16 professional education programs including all clinical facilities use for learning, and
17 shall survey and approve programs that meet the requirements of this Act.
- 18 2. An institution desiring to conduct a health professional education program in Republic
19 of the Marshall Islands shall apply to the Board and submit evidence that its program
20 meets the standards established by the Board.
- 21 3. The Board shall approve the program, if the Board finds that the program meets the
22 established standards for this type of educational program.

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- 1 4. The Board shall periodically survey and evaluate approved health professional
2 education programs and shall publish a list of approved programs.
 - 3 5. The Board may deny or withdraw approval or take such action as deemed necessary
4 when health professional education programs fail to meet the standards established by
5 the Board
 - 6 6. The Board shall reinstate approval of a health professional education program upon
7 submission of satisfactory evidence that the program meets the standards established by
8 the Board.
 - 9 7. Provisional approval of new programs may be granted pending the licensing results of
10 the first graduating or participating class.
 - 11 8. Conditional approval may be granted to a health professional program which is
12 working toward meeting the conditions for full approval. The graduates of
13 conditionally approved programs may be eligible for licensing.

14 **Section 23. Approval of Pharmacies.**

- 15 1. The Board shall, by regulation, approve the establishment, conduct of, and standards
16 for pharmacies, and shall survey and approve pharmacies that meet the requirements
17 of this Act and the Board.
- 18 2. Any party desiring to conduct a pharmacy in Republic of the Marshall Islands shall
19 apply to the Board and submit evidence that its pharmacy meets the standards
20 established by the Board. If the Board finds that the pharmacy meets the established
21 standards, it shall approve the program.
- 22 3. The Board shall periodically re-survey and re-evaluate approved pharmacies and shall
23 publish a list of approved pharmacies.

1 4. The Board may deny or withdraw approval or take such action as deemed necessary
2 when pharmacies fail to meet the standards established by the Board

3 5. The Board shall reinstate approval of a pharmacy upon submission of satisfactory
4 evidence that the pharmacy meets the standards established by the Board.

5 Section 24. **Violations.**

6 A person shall not:

7 (a) Engage in the practice of a health profession as defined in this Act without a valid
8 license, except as otherwise permitted under this Act and the Regulations
9 promulgated under this act.

10 (b) Practice a health profession under cover of any diploma, license, or record
11 illegally or fraudulently obtained, signed, or issued.

12 (c) Use any words, abbreviations, figures, letters, title, sign, card, or device sending
13 to imply that he or she is a licensed health practitioner unless the person is
14 licensed to practice under this Act and the Regulations promulgated under this
15 act.

16 (d) Fraudulently obtain a license or furnish a license to another.

17 (e) Knowingly employ unlicensed persons in the practice of a health profession.

18 (f) Conduct a pharmacy without the approved of the Board.

19 (g) Fail to report known violations of this Act.

20 (h) Conduct a health professional education program without the approval of the
21 Board.

1 (i) Violate or assist another person to violate any provision of this Act.

2 Section 25. **Exceptions.**

3 No provision in this Act shall be construed to prohibit:

- 4 1. Gratuitous care of the sick, injured, or infirm by friends or relatives.
- 5 2. Incidental care of the sick, injured, or inform by persons acting as parents or by
6 persons primarily employed as house-keepers.
- 7 3. Domestic administration of Marshallese family or Marshallese traditional remedies or
8 healing acts.
- 9 4. Necessary health care services performed in case of an emergency, epidemic, or
10 public disaster.
- 11 5. The practice of a health profession which forms an integral part of a student`s training
12 program approved by the Board, or which forms an integral part of a program leading
13 to qualification as a physician, dentist, surgeon or practitioner of any other health
14 profession and not expressly provided in this Act.
- 15 6. The establishment of an independent practice by one or more health professionals for
16 the purpose of rendering to patients health care services within the scope of their
17 educational preparation and the scope of their licensed (s) to practice.
- 18 7. The practice of any health professional on board a vessel or aircraft traveling to or
19 from any part of Republic of the Marshall Islands to any port outside Republic of the
20 Marshall Islands.
- 21 8. Care of any employee, servant, or agent of a foreign government organization or any
22 individual present in Republic of the Marshall Islands in connection with any

1 educational or assistance program approved by the government of Republic of the
2 Marshall Islands.

3 Section 26. **Good Samaritans**

- 4 1. No licensee, employer of a licensee, or other person, who in good faith renders
5 emergency care at the scene of an emergency, shall be liable to any civil damages as a
6 result of any negligent or reckless acts or omissions by the licensee or other person in
7 rendering the emergency care.
- 8 2. For the purpose of this Section "Good Samaritans" means emergency medical care
9 rendered at scene of emergency.
- 10 3. For purposes of this section, "the scene of an emergency" means
11 (i) any place other than within a hospital or medical clinic; or
12 (ii) the emergency room or similar urgent care facility of any hospital; or
13 (iii) medical clinic when immediate emergency care is needed by three or more
14 patients for each doctor that is present.

15 Section 27. **Offenses and Penalties.**

- 16 1. Criminal Offenses: A person who violates any provisions of this Act shall be guilty of
17 a criminal offense and shall, upon conviction, be sentenced to not more than six
18 months in prison, and fined not more than \$1,000 per violation.
- 19 2. Civil Penalties: Any institution or company or corporation or organization which
20 violates any provision of this Act shall be punishable by civil penalties not exceeding
21 \$1,000 per initial violation or \$10,000 for each subsequent violation.

22 Section 28. **Repealer.**

1 The provisions applicable to health professions in the Nursing Practice Act, 1995 and the
2 Health Services Act, 1983 are hereby repealed.

3 Section 29. **Transition.**

4 Section 18, 19a, 20, 20, 21, 22, 24, and 25 of this Act shall not be enforced until 100 days
5 after the effective date of the Act.

6 Section 30. **Bylaws and Regulations**

7 The Board shall promulgate regulations pursuant to the requirements of the
8 Administrative Procedures Act.

9 Section 31. **Effective date.**

10 This Act shall take effect on the date of certification in accordance with Article IV of the
11 Constitution and Rules and Procedures of the Nitijela.

12
13
14 **CERTIFICATE**

15 **I hereby certify:**

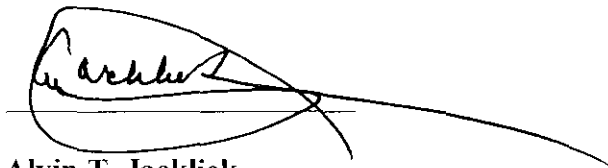
16 1. That Nitijela Bill No: 37 was passed by the Nitijela of the Republic of the
17 Marshall Islands on the 5th day of March, 2010; and

18 2. That I am satisfied that Nitijela Bill No: 37 was passed in accordance with the
19 relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of
20 Procedures of the Nitijela.

21
22 I hereby place my signature before the Clerk this 24th day of March, 2010

Attest:

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Alvin T. Jacklick

Speaker

Nitijela of the Marshall Islands



Lena E. Tiobech

Acting Clerk

Nitijela of the Marshall Islands

