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ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

HEALTH INSTITUTIONS AND FACILITIES ACT, 2011

AN ACT to provide for a Health Facilities Regulatory Agency to license facilities for the provision of public and private health care services, to establish the Mortuaries and Funeral Facilities Agency to control and regulate facilities connected with the storage and disposal of human remains, to establish an Ambulance Council to regulate the operation of ambulance services in the country in accordance with policy standards and to provide for related matters.

DATE OF ASSENT:

PASSED by Parliament and assented to by the President:

Application

1. This Act binds the Republic.

PART ONE -HEALTH FACILITIES REGULATORY AGENCY

Establishment of the Agency Establishment of

the Agency

2. (1) There is established by this Act a body corporate with perpetual succession to be known as the Health Facilities Regulatory Agency.

(2) Where there is hindrance to the acquisition of property, the property may be acquired for the Agency under the State Property and Contracts Act, 1960 (C. A. 6) or the State Lands Act, 1962 (Act 125) and the costs shall be borne by the Agency.

Object of the Agency

3. The object of the Agency is to license and monitor facilities for the provision of public and private health care services.

Functions of the Agency

4. The functions of the Agency are to
- (a) receive, consider and approve applications for licences under this Part;
 - (b) inspect and license facilities intended for the provision of public and private health care services;
 - (c) determine the basic and minimum equipment and personnel required for the type of service to be provided in a practice;
 - (d) regulate and monitor activities in a practice to determine the adequacy and standard of health care provided;

(e) collaborate with any other person or authority to

(i) maintain professional standards in a practice;

(ii) regularly assess health facilities for certification and accreditation;

(iii) achieve continual quality improvement of health care providers; and

(f) perform any other functions that are ancillary to the object of the Agency.

Governing body of the Agency

5. (1) The governing body of the Agency is a Board consisting of (a) one representative from a public health facility nominated by the Minister in consultation with the relevant professional body, (b) one representative from the National Health Insurance Authority not below the rank of a Director,

(c) one representative from the Attorney-General's Department, not below the level of a Principal State Attorney,

(d) one bio-medical engineer nominated by the Minister in consultation with the Ghana Institution of Engineers,

(e) one representative of the Ministry of Health nominated by the Minister,

(f) the Registrar, and

(g) three other persons nominated by the Minister which shall include a nursing officer of a senior rank and a private medical practitioner.

(2) The President shall.

(a) appoint the members of the Board in accordance with article 70 of the Constitution;

(b) have regard to gender in the appointment of members of the Board; and

(c) select one of the members to be chairperson.

(3) The Board shall ensure the proper and effective performance of the functions of the Agency.

Zonal Health Facilities Committees

Establishment of Zonal Health Facilities Committees

6. There shall be established Zonal Health Facilities Committees.

Composition of a Zonal Committee

7. (1) A Zonal Committee shall comprise not more than five members with the relevant qualification, expertise and experience at least one of whom is a woman.

(2) The members of a Zonal Committee shall be appointed by the Board.

Functions of a Zonal Committee 8. A Zonal Committee shall,

- (a) receive applications on behalf of the Board and make recommendations to the Board for the licensing of facilities for a practice;
- (b) monitor the operations of licenced facilities in the zone; (c) receive licencing fees on behalf of the Board;
- (d) inspect a facility and the equipment to be used in a practice; (e) appraise the technical specifications of a facility for a licence;
- (f) effect a temporary closure of a facility with the assistance of a senior police officer not below the rank of Assistant Superintendent of Police;
- (g) submit a report of a contravention of a provision of this Part to the Board within fourteen days of becoming aware of the contravention;
- (h) submit quarterly reports on its activities to the Board; and (i) perform any other function assigned to it by the Board.

Tenure of office and meetings of a Zonal Committee

9. The provisions of sections 94 and 95 relating to tenure of office and meetings of the Board under this Act shall apply with the necessary modifications to the tenure of office and meetings of a Zonal Committee.

Petitions from a Zonal Committee

10. (1) A person aggrieved by a decision or an action of a Zonal Committee may submit a petition to the Board.

(2) The Board shall

- (a) consider the petition within fourteen days of receipt of the petition; and
- (b) communicate its decision to the aggrieved person within thirty days after consideration of the petition.

(3) Subsection (1) does not limit a right of action to obtain redress from the Court.

Licensing of facilities

Facilities to be licensed

11. (1) A person shall not operate a facility unless the facility is licensed under this Act.

(2) A person shall not operate equipment in a facility specified in the First Schedule unless the facility in which the person operates is licensed under this Act.

Application and conditions for a licence

12. (1) A person shall apply to the Agency for a licence within the area in which the practice is to be operated in the form determined by the Board.

(2) There shall be attached to the application

(a) the block plan of the facility for the practice;

(b) preliminary approval from the district planning authority of the District Assembly on the suitability of the land and facility to be used for the practice;

(c) clearance from the Environmental Protection Agency; (d) plans for the disposal of medical waste;

(e) copies of certificates of proposed practitioners in the practice and proof of their registration with the appropriate professional bodies;

(f) a list of the types of services to be rendered;

(g) a list of equipment in the practice with their technical specifications;

(h) evidence of financial capability for the ownership and operation of the practice applied for;

(i) the prescribed fee; and

(j) any other requirement specified by the Board.

(3) A licence shall not be granted to an applicant for a facility unless the Agency is satisfied that

(a) the applicant or managing employee of the applicant has at least five years post qualification experience in a recognised institution of relevance to the profession of the practice;

(b) the past and present conduct of the person concerned with the operation of the practice provides reasonable grounds to believe that the applicant will operate in accordance with this Part;

(c) the applicant is able to provide the resources and equipment required to operate the practice; and

(d) any other requirement specified by the Board has been complied with.

(4) The person concerned with the operation of the practice in

subsection (3) (b) for a facility includes (a) the applicant,

(b) an officer or director of the practice,

(c) a person who has equity shares in the practice or an officer or a director, or

(d) a person who has a beneficial interest in the operation of the practice.

Application by non-citizen

- 13.** (1) Subject to section 12, a person who is not a citizen may apply to the Agency to own or operate a practice in a facility if that person (a) possesses a valid work permit issued by the Minister for the Interior,
(b) is registered with the appropriate regulatory professional body in Ghana,
(c) has at least five years post qualification experience in a recognised institution of relevance to the profession of the practice,
(d) has a Ghanaian professional in a similar discipline as a business partner, and
(e) has fulfilled any other conditions set by the Board.

(2) A person who is not a citizen shall not own or operate a facility unless that person has practised in the profession in the country for at least one year in a recognised institution.

Issue of licence

14. (1) Where a Zonal Committee is satisfied that an applicant has fulfilled the required conditions, it shall recommend to the Board to issue a licence to the applicant.

(2) The Registrar may issue a provisional licence within thirty days of receipt of the application and the Board shall issue the licence on or before the next quarterly meeting of the Board after receipt of the recommendation from the Zonal Committee.

(3) A provisional licence issued by the Registrar is valid for six months from the date of issue.

(4) A licence issued by the Board is valid for three years after the date of issue and may be renewed subject to this Act.

(5) The applicant shall pay the prescribed fee in respect of the licence or a renewal of it.

Revocation of licence

15. The Board may on its own or on the recommendation of a Zonal Committee revoke or refuse to renew a licence for a practice if

- (a) the state of the facility disqualifies the licensee from being granted a licence; or
(b) it has reasonable grounds to believe that the continued operation of the Practice by the licensee will create a risk to public health, public safety or is indecent.

Notice of refusal to issue or renew a licence

- 16.** (1) Where the Board intends to refuse to issue or renew a licence,

the Board shall give the applicant or licensee (a) a notice of intention to refuse,

(b) reasons for the intention to refuse, and

(c) an opportunity to make a representation to the Board.

(2) Where a licence is either refused or revoked the applicant or the licensee shall be informed of the reason within four weeks of the refusal or revocation.

Representations to the Board

17. (1) An applicant or licensee who receives a notice under section 15 (a) may make a representation to the Board within twenty-one days after the date of receipt of the notice of refusal.

(2) Where a representation is not made, the Board may refuse to issue or renew the licence or may revoke the licence after the time specified in the notice has expired.

(3) Where representation is made to the Board the affected practice shall operate under the supervision of a person or body appointed by the Board until the Board determines the case within a reasonable time.

(4) A person who is aggrieved by the refusal of the Board to issue or renew a licence may seek redress in Court.

Application of additional services

18. An owner or operator of a practice shall apply to the Board for the provision of additional services which were not listed in the original application.

Display of licence

19. A licence issued under this Part shall be displayed in a prominent place which is accessible to patients and clients in the premises of the practice.

Submission of health service data

20. The licensee of a practice shall submit health service data to the Ministry every three months or as directed in writing by the Minister.

Power of entry and inspection

21. (1) An inspector may at any time enter facilities used for a practice

and shall inspect

(a) the licence, registers and books of the practice, (b) the facility including the equipment, and

(c) any other thing which is relevant to the practice and make recommendations to the Board.

(2) The inspector shall at the request of the person in charge of the practice or facility produce an identity and authorisation from the Board for the inspection.

(3) The Board shall cause a practice to be inspected at least once a year.

(4) A police officer not below the rank of an Assistant Superintendent may enter any premises if there is reasonable cause to believe that an offence with respect to this Part has been, is being or is about to be committed on the premises and may arrest the offender.

(5) The Board shall order the closure of a facility or a part of the facility if it is considered in the public interest to do so.

(6) This section shall not be construed as authorising the inspection in a practice of a medical record relating to a patient unless authorised by a Court.

Obstruction of inspector

22. A person shall not obstruct an inspector in the discharge of duties under this Part.

Miscellaneous provisions

Offences

23. A person who

(a) owns a practice and operates in an unlicensed facility,

(b) fails to renew a licence and continues to practice,

(c) provides unauthorised services in a licensed facility,

(d) prevents an authorised person from closing down the practice,

Offences

23. A person who

(a) owns a practice and operates in an unlicensed facility,

- (b) fails to renew a licence and continues to practice
 - (c) provides unauthorised services in a licensed facility,
 - (d) prevents an authorised person from closing down the practice,
 - (e) obstructs the entry for inspection of an inspector,
 - (f) breaches a condition of a provisional licence issued by the Registrar,
 - (g) breaches a condition of a licence issued by the Board,
 - (h) makes a false declaration on an application form for a licence,
 - (i) provides the Board with false information concerning the premises or practice,
 - (j) practices in a facility without the appropriate registration, (k) fails to submit a health service data required under section 20 to the Ministry,
 - (l) poses as an inspector to obstruct a licenced service provider; or (m) contravenes any other provision of this Part,
- commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units or to a term of imprisonment of not more than ten years or to both and in the case of a continuing offence, to a further fine often penalty units for each day during which the offence continues after written notice has been served on the offender by the Board and the Court may order the temporary or permanent closure of the facility.

Regulations

24. (1) The Minister, may on the advice of the Board, by legislative instrument, make Regulations to

- (a) provide for the supervision and inspection of premises;
- (b) provide for the prescription of safety standards for premises and sanitary arrangements of a practice;
- (c) regulate the accommodation and appropriate equipment for each type of practice;
- (d) provide for the prevention of the spread of infectious diseases;
- (e) prescribe the registers and records to be kept in a facility; (f) prescribe the fees to be paid for the licensing of facilities; (g) regulate the preparation and storage of food and other logistics;
- (h) prescribe the registers and records to be kept in respect of patients;
- (i) prescribe the notification of deaths, births, stillbirths, miscarriages and abortions to the appropriate authority;
- (j) prescribe the records to be kept when a child who is born in a health facility is discharged or otherwise leaves the hospital without authority;
- (k) prescribe the type of health data to be submitted to the Ministry and the mode of keeping the data;

(l) prescribe additional health care services to be registered under this Part;

(m) provide for the conditions for the issuance and renewal of a
licence;

(n) provide for the accreditation of facilities;

(o) provide for the disposal of medical waste; and

(p) provide for any other matter necessary for the effective implementation of this Part.

(2) A person who commits an offence under the Regulations is liable on summary conviction to a fine of not more than five thousand penalty units.

Interpretation

25. In this Part unless the context otherwise requires,

"Agency" means the Health Facilities Regulatory Agency; "allopathic medicine" means a system of medical practice that is based on application of rational scientific evidence and enquiry which has been the dominant practice since the 19th century and is also referred to as western or orthodox medicine;

"Board" means the governing body of the Agency; "convalescent home" means an institution where a patient can be admitted for a short stay for complete recovery after having been admitted and discharged from a hospital; "district" includes the area of authority of a District Assembly

and a municipal and metropolitan authority;

"facility" means premises used for a practice;

"geriatric home" means a home for the aged;

"health care services" means allopathic medicine;

"hospital" includes a clinic which has lying-in facilities; "inspector" means a person authorised by the Board under this

Part;

"licence" means a licence for the operation of a practice; "lying-in facility" means a place where provision is made for nursing care, investigative service and any other medical services;

"maternity home" means a building or any other premises where provision is made for medical attention or nursing facilities before, during or after childbirth whether gratuitously or for a fee;

"medical assistant" means a person registered under the relevant law who is trained and recognised by the Ministry of Health to do medical screening and treatment in health posts, clinics and hospitals;

"medical waste" means waste generated from a practice; "Minister" means the Minister responsible for Health; "nursing home" means an institution for taking care of people who cannot be kept in or returned to their own homes after treatment in a hospital;

"practice" includes medical and dental services, services in clinics and hospitals, services in pharmacies and chemical shops, optometry and optician services, chiropody, convalescent and nursing homes services, community health services, geriatric homes, nursing care, nursing agencies, maternity homes and occupational therapy services, physiotherapy services, dental laboratory technology services, clinical and bio-medical laboratory technology services, ophthalmic nursing services and physician assistant services;

"practitioner" means a person registered with the appropriate regulatory professional body in Ghana under the relevant law who is capable of functioning in a practice; "premises" includes a house, building, structure, tent, caravan, land, ship, boat, an aircraft and a mechanically propelled vehicle;

"prescribe" means prescribed by Regulations;

"recognised institution" means an institution that is approved by the Board, the Pharmacy Council, the Medical and Dental Council or the Ministry of Health which has the requisite facilities and staff to provide community health care services, district health care services and specialised health care services in the relevant discipline or profession;

"Regulations" means the Regulations made under this Act; "regulator" means the Private Hospitals and Maternity Homes Board established under the Private Hospitals and Maternity Homes Act, 1958 (No. 9) and the Pharmacy Council established under the Pharmacy Act, 1994 (Act 489);

"unauthorised practice" means services in facility that is not registered with the Board, or services that a facility has not been registered to perform; and

"Zonal Committee" means a Zonal Health Facilities Committee which is made up of a team from a district or a group of districts within a region.

Transitional provisions

26. (1) A person who operates a health facility before the commencement of this Act, shall apply for a licence to operate the facility after the expiration of the existing licence.

(2) An application for a licence pending before a regulator before the commencement of this Act shall be processed by the regulator.

(3) The Pharmacy Council shall transfer to the Agency any information, knowledge, materials and staff necessary for the efficient and effective performance of the functions of the Agency within five years after the commencement of this Act

(4) The Board shall be established by the President within three months after the commencement of this Act.

Repeal and savings

27. (1) The Private Hospitals and Maternity Homes Act, 1958 (No.9) is hereby repealed.

(2) The register of practitioners in use immediately before the commencement of this Act and each document prepared or issued under the Private Hospitals and Maternity Homes Act, 1958 (No.9) shall continue in force as if kept, prepared or issued under the corresponding provisions of this Act.

28. (1) There is established by this Act a body corporate with perpetual succession to be known as the Mortuaries and Funeral Facilities Agency

(2) Where there is hindrance to the acquisition of property, the property may be acquired for the Agency under the State Property and Contracts Act, 1960 (C. A. 6) or the State Lands Act, 1962 (Act 125) and the costs shall be borne by the Agency.

Object of the Agency

The object of the Agency is to licence, control and regulate facilities connected with the storage, transportation and disposal of human remains

PART TWO-MORTUARIES AND FUNERAL FACILITIES AGENCY

Establishment of the Agency

Establishment of the Agency

Functions of the Agency

30. (1) The functions of the Agency are to (a) regulate facilities under this Part; (b) licence and register practitioners; (c) determine basic specifications of equipment for facilities; (d) ensure in the public interest the provision of the highest

standards of service by practitioners;

(e) regulate the siting of facilities in the country; (f) issue licences for facilities;

(g) categorise and classify the various facilities for handling human remains;

(h) establish, develop and maintain practice standards for practitioners;

(i) establish standards and provide guidelines for the development of curriculum for training of practitioners in collaboration with training institutions;

(j) approve courses of study and examinations for the qualification of applicants for registration in collaboration with educational institutions;

(k) promote public educational activities with respect to this Part;

(l) supervise and monitor activities of the Zonal Mortuaries and Funeral Facilities Committees under this Part; (m) investigate complaints and take appropriate actions;

(n) control and monitor the standards of service for storage and disposal of human remains in public and private institutions; and (o) perform any other functions that are ancillary to the object of the Agency.

(2) The Agency may delegate any of its functions to a person or an authority that it may determine.

Governing body of the Agency

31. (1) The governing body of the Agency is a Board consisting of (a) a pathologist preferably an anatomic pathologist nominated by the Minister as chairperson,

(b) the Registrar,

(c) one representative from the Births and Deaths Registry not below the rank of a Director,

(d) one representative from the Ministry responsible for Local Government and Rural Development not below the rank of a Director,

(e) one representative from the Environmental Protection Agency not below the rank of a Director,

(f) one practitioner under this Part with relevant professional background nominated by the Minister in consultation with the professional body,

(g) one representative of the Attorney-General not below the level of Principal State Attorney, and

(h) two other persons at least one of whom is a woman nominated by the Minister.

(2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

(3) The Board shall ensure the proper and effective performance of the functions of the Agency.

Zonal Mortuary and Funeral Facilities Committees

Establishment of Zonal Mortuary and Funeral Facilities Committee 32. There is hereby established Zonal Mortuary and Funeral Facilities Committees.

Composition of a Zonal Committee

33. (1) A Zonal Committee shall consist of (a) a Chairperson,

(b) a District Director of Health Services who shall be the Secretary,

(c) a police officer not below the rank of Assistant Superintendent, (d) one representative of the District Assembly from the relevant committee,

(e) a district representative of the Registrar for Births and Deaths, and

(f) two representatives of practitioners elected by the practitioners at least one of whom is a woman

(2) The chairperson and members of a Zonal Committee shall be appointed by the Board.

Functions of a Zonal Committee

34. (1) A Zonal Committee shall, in the respective zone (a) issue temporary licences for facilities;

(b) inform the Board of the temporary licences issued;

(c) decide on the siting of facilities, hold public hearings on the issue where necessary and inform the Board;

(d) inspect facilities;

(e) submit a report of a contravention of a provision of this Act to the Board within fourteen days of becoming aware of the contravention;

(f) carry out temporary closure of facilities and report the closure to the Board;

(g) maintain a list of facilities operating in the zone; (h) submit to the Board the reports it shall direct; and

(i) perform any other functions determined by the Board.

(2) A Zonal Committee in the performance of its functions shall collaborate with the relevant sub-committees of the District Assembly.

(3) Sections 94 and 95 shall apply with the necessary modification to a Zonal Committee.

Petitions from Zonal Committees

35. (1) A person aggrieved by a decision or an action of a Zonal Committee may submit a petition to the Board.

(2) This section does not limit a right of action to obtain redress from the Court.

Registration of practitioners

Registration of practitioners

36. A person other than a registered pathologist shall not operate in a facility as a practitioner unless that person is registered under this Part.

Application for registration

37. A person shall apply for registration to practice in the prescribed form through the Registrar of the Agency.

Qualification of practitioners

38. (1) Where the Board is satisfied that the applicant has adequate relevant training, qualification or experience, it shall direct the Registrar to record the name of the applicant in the register of practitioners.

(2) The Registrar shall issue the applicant with a certificate of registration on the payment of the prescribed fee.

(3) A person issued with a certificate under subsection (2) is known as a practitioner for the purposes of this Part.

(4) Registration under this Part is in addition to registration required under any other law in respect of the practice.

(5) The certificate of registration is valid for three years from the date of issue.

(6) The certificate shall be renewed subject to this Part.

Register of practitioners

39. The Registrar shall record in a register the names and any other particulars of practitioners.

Cancellation of registration

40. (1) A certificate of a practitioner shall be cancelled by the Board

on the recommendations of the Registrar where the practitioner

- (a) is convicted of an offence under this Part or the Regulations,
- (b) has breached any of the terms of the licence for the facility,
- (c) no longer has the qualification on the basis of which the

registration was made, or

(d) is sentenced to a term of imprisonment for a criminal offence.

(2) The Board may, in the public interest, cancel the certificate of a practitioner.

Suspension of registration

41. (1) The Board may suspend the registration of a practitioner for a period determined by the Board where

- (a) an offence in relation to the practitioner is being investigated, (b) an allegation of misconduct has been made against the practitioner,
- (c) a false declaration has been made in a certificate issued by the practitioner, or
- (d) the practitioner has contravened but has not been convicted of a provision of this Part.

(2) The Board shall conclude its investigation within a period of six months from the time of the suspension of the practitioner.

(3) The Board may restore the registration of a practitioner.

Representation to the Board

42. (1) A practitioner whose registration is cancelled or suspended may make a representation to the Board within sixty days after the cancellation or suspension.

(2) The Board may refuse to restore the registration of a practitioner after the time specified to make the representation has expired.

(3) Where successful representation is made to the Board, the registration of the practitioner shall be restored by the Board.

Licensing of facilities Licence of facility

43. (1) A person shall not own or operate a facility unless that facility is licensed under this Part.

(2) Facilities required to be licensed are

- (a) cold storage facilities for human remains; (b) mortuaries;
- (c) funeral homes; (d) crematoria;

(e) columbaria;

(f) mausoleums; (g) cemeteries;

(h) hearses; and

(i) any other facility that the Minister may determine on the recommendation of the Board.

Application and conditions for a licence

44. (1) A person may apply to the Board for a licence to own or operate a facility.

(2) There shall be attached to the application

(a) a preliminary approval from the district planning officer of the suitability of the land or premises to be used for the facility, (b) the block plan of the facility,

(c) clearance from the Environmental Protection Agency, and (d) evidence of financial capability for the ownership or operation of the facility applied for.

(3) A licence shall not be granted to an applicant unless the Board is satisfied that

(a) the past or present conduct of the applicant concerned with the operation of the facility provides reasonable grounds to believe that the applicant will operate in accordance with this Part, (b) the applicant has the experience or training to manage the facility in accordance with this Part,

(c) the applicant has submitted a plan of the facility,

(d) the applicant is able to provide the resources and equipment required to manage the facility, and

(e) any other requirement specified by the Board has been complied with.

Issue and renewal of licence

45. (1) Where the Registrar is satisfied that an applicant qualifies under subsection (3) of section 44 and has fulfilled the other conditions required under this Act, it shall issue a provisional licence and inform the Board.

(2) A provisional licence is valid for six months.

(3) A licence issued by the Board is valid for three years from the date of issue and may be renewed subject to this Act.

(4) The licence shall be displayed in a prominent place in the facility which is accessible to a client.

Revocation of licence

46. The Board may refuse to renew a licence to own or operate a facility if

(a) the state of the licensee disqualifies the applicant from being granted a licence;

(b) the licensee is a body corporate and the shareholding of that body has changed in such a way as to compromise the financial ability or technical competence and standards of that body; or

(c) the Board has reasonable grounds to believe that the continued operation of the facility by the licensee compromises or is likely to compromise the public interest, public health, public safety or is indecent.

Notice of refusal to renew licence

47. Where the Board intends to refuse to renew a licence, the Board

shall give the applicant or licensee

- (a) a notice of intention to refuse,
- (b) reasons for the intention to refuse, and
- (c) an opportunity to make representations to the Board.

Representations to the Board

48. (1) An applicant or licensee who receives a notice under section 47 may make a representation to the Board within sixty days after the date of receipt of the notice of refusal.

(2) Where a representation is not made under subsection (1), the Board may refuse to renew a licence or may recommend the revocation of the licence after the time specified under subsection (1) has expired.

(3) Where a representation is made under this section, the affected facility shall be closed and shall not operate until the case is determined by the Board and the licence is restored.

Power of entry and inspection

49. (1) An inspector authorised by the Board may at any time, on production of an identity enter and inspect

(a) the licensed facilities under in section 43 (2), or

(b) premises suspected by the authorised person to be facilities required to be licensed under section 43 (2).

(2) The inspector shall inspect as applicable

(a) the facility including plant and equipment, (b) the licence, registers and books of the facility, (c) the registration certificate of the practitioner, (d) the premises, and

(e) any other thing which is relevant to the facility and make recommendations to the Board.

(3) The Board may order the closure of a facility if it is considered to be in the public interest to do so.

Obstruction of inspector

50. A person shall not obstruct an authorised inspector in the performance of a function under this Act.

Burial grounds

Authorised burial grounds

51. (1) A person shall not bury the human remains of a person in a place other than a burial ground authorised under this Part.

(2) A burial ground authorised under this Part shall be registered with the Zonal Committee.

District Assembly to provide burial grounds

52. A District Assembly shall, on the advice of a Zonal Committee, provide public burial grounds which shall be licenced under this Part.

Private burial grounds

53. (1) A District Assembly shall, on the advice of a Zonal Committee, license as a private burial ground any parcel of land which a person may wish to set aside as a private burial ground.

(2) There shall be attached to the licence, conditions determined by the District Assembly in consultation with its sub-committee.

Exhumation

54. (1) The Board through the Minister and in consultation with the relevant District Assembly may apply to the coroner to order the exhumation of human remains and the removal of the human remains to a place it shall direct.

(2) Subject to the Coroners Act, 1960 (Act 18) a person shall not exhume or remove any human remains after burial except under subsection (1).

55. A person who

(a) practices in a facility without registering as a practitioner

except a licenced pathologist;

(b) uses a facility for services other than what it is licensed for,

(c) fails to license a facility;

(d) makes a false declaration in an application for registration or for a licence;

(e) fails to renew the registration or licence to operate a facility;

(f) obstructs an inspector;

(g) pollutes the environment in the course of operations under this Part;
(h) accepts, releases or disposes of human remains in contravention of a provision of the Regulations;
(i) buries human remains in a place other than an authorised burial ground;
(j) exhumes or after burial, removes any human remains without authority; or
(k) contravenes any other provision of this Part;
commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment and the Court may order temporary or permanent closure of the facility.

Regulations

56. (1) The Minister may, by legislative instrument, make Regulations (a) for the supervision and inspection of facilities;
(b) prescribing the standards of sanitary, safety and security arrangements of a facility;
(c) specifying details and methods of rendering services by facilities;
(d) for the management, accommodation and equipment of a facility;
(e) for the preparation and storage of chemical reagents and human remains in facilities;
(f) for procedures to disinfect facilities and prevent infection; (g) prescribing the records to be kept in the facilities in respect

of human remains;

(h) regulating the admission and discharge of human remains; (i) prescribing fees to be paid under this Part;
(j) related to
 (i) embalming, (ii) cremation, (iii)
 exportation,

 (iv) importation, and

 (v) burial of human remains, and

(k) to provide for any other matter necessary for the effective implementation of the provisions of this part.
(2) A person who commits an offence under the Regulations is liable on summary conviction to a fine of not more than five thousand penalty units.

57. In this Part unless the context otherwise requires,

"Agency" means the Mortuaries and Funeral Facilities Agency; "applicant" in accordance with section 44 (3) includes
(a) a managing employee,

(b) a person holding more than ten per cent of the equity shares of the facility or a managing employee, and (c) a person who has a beneficial interest in the operation of the facility;

"Board" means the governing body of the Mortuaries and Funeral Facilities Agency;

"burial ground" includes land set aside to be used for the interment of human remains, a mausoleum, cemetery, columbarium or any other structure intended for the interment of human remains or cremated human remains;

"client" means a person who makes arrangements in respect of the disposal of human remains with a practitioner;

"cold storage facility" means premises with refrigeration equipment for storage of human remains;

"columbarium" means a structure designed for the purpose of interring cremated human remains in a sealed compartment;

"crematorium" means premises fitted with appliances for the purpose of cremating human remains, a place or site used for cremating human remains and anything used in connection with cremation;

"district" includes the area of authority of a District Assembly and of a municipal and metropolitan authority;

"District Assembly" includes Municipal and Metropolitan Assembly;

"embalment" means the preservation and disinfection of all or part of a human body by any means other than refrigeration; "facility" includes a cold store for human remains, mortuary, funeral home, crematoria, cemetery, columbarium, mausoleum and a hearse;

"funeral home" means premises with or without cold storage facility for human remains where preparations for burial are made;

"hearse" includes a device registered for the purpose of carrying or transporting human remains with or without a coffin;

"human remains" includes the body of a deceased person or still born child and any part or remains of a body or still born child and any part of a body removed in the course of surgical operation;

"inspector" means a person authorised by the Board under this Part;

"mausoleum" means premises other than a columbarium used as a place of interment of human remains in sealed crypt or compartment;

"Minister" means the Minister responsible for Health; "mortuary" means premises with equipment for autopsy and cold storage where human remains are kept until disposal;

"practitioner" includes a person with relevant training and qualification or experience acceptable by the Board and registered to operate under this Part and an undertaker, embalmer, cremator and sexton;

"premises" includes a house, building, structure, tent, caravan, ship, boat, or an aircraft;

"public hearing" means a meeting of stakeholders in a community connected with the matter;

"Registrar" means the Registrar of the Mortuaries and Funeral Facilities Agency;

"Regulations" means the Regulations made under this Part; and "Zonal Committee" means the Zonal Mortuary and Funeral Facilities Committee which is made up of a team from a district or a group of districts within a region ..

Transitional provisions

58. (1) The rights, assets and liabilities accrued in respect of properties vested in the Board established under the Mortuaries and Funeral Facilities Act, 1998 (Act 563) immediately before the commencement of this Act and the persons employed by the Board shall be transferred to the Agency established under this Act and accordingly proceedings taken by or against the former Board may be continued by or against the Agency.

(2) A contract subsisting between the former Board established under the Mortuaries and Funeral Facilities Act, 1998 (Act 563) and a person and in effect immediately before the commencement of this Act shall subsist between the Agency under this Act and that other person.

Repeal and savings

59. (1) The Mortuaries and Funeral Facilities Act, 1998 (Act 563) is hereby repealed.

(2) The register of practitioners in use immediately before the commencement of this Act and each document prepared or issued under Act 563 shall continue in force as if kept, prepared or issued under the corresponding provisions of this Act.

PART THREE-AMBULANCE COUNCIL

Establishment of the Council Establishment of

the Ambulance Council

60. (1) There is established by this Act a body corporate with perpetual succession to be known as the Ambulance Council.

(2) Where there is hindrance to the acquisition of property, the property may be acquired for the Council under the State Property and Contracts Act 1960 (C.A 6) or the State Lands Act, 1962 (Act 125) and the costs shall be borne by the Council.

Object of the Council

61. The object of the Council is to regulate the operation of ambulance services in the country in accordance with policy standards.

Functions of the Council

62. The functions of the Council are to

(a) set and enforce standards for training of practitioners, training institutions and for service delivery;

(b) monitor the operations of ambulance services to ensure that standards for pre-hospital care delivery are maintained;

(c) supervise, monitor and evaluate practitioners, training

institutions and service providers; (d) register and licence practitioners; (e) maintain a register for practitioners

(f) ensure equitable distribution of ambulance service in the country;

(g) advise the Minister on policy matters;

(g) regulate the fees to be charged by service providers;

(h) collaborate with relevant institutions for purposes of this Part; and

(i) perform any other functions that are ancillary to its objects.

Governing body of the Council

63. (1) The governing body of the Council is a Board consisting of (a) a chairperson, (b) one representative from the Ministry of Health not below the rank of Director, (c) one representative from the Ghana National Fire Service not below the rank of Deputy Chief Fire Officer, (d) one representative from the Attorney-General's Department not below the rank of Principal State Attorney, (e) one representative from the National Disaster Management Organisation, (f) one representative of private ambulance service providers nominated from among their number, (g) two persons who are not health professionals, one of whom is a woman nominated by the Minister, and (h) the Registrar.

(2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

(3) The Board shall ensure the proper and effective performance of the functions of the Council.

Registration of practitioners

Registration of practitioners

64. (1) A person shall not practise pre-hospital care delivery unless that person is registered in accordance with this Part.

(2) A person seeking registration shall apply to the Registrar in the manner determined by the Board.

(3) The registration is valid for a period of three years and is subject to renewal.

Qualification for registration

65. (1) A person does not qualify to practise pre-hospital care delivery unless that person is registered in accordance with this Part.

(2) A person registered shall be issued with a certificate and shall be known as a practitioner.

(3) Registration under this Part shall be in addition to registration required under any other law for the time being in force in respect of the practice.

Temporary registration of practitioners

66. The Board may temporarily register an applicant who does not intend to practise permanently in the country if the applicant has (a) the requisite training from a recognised institution, (b) a good working knowledge of the English language, (c) proof of registration to practice, and (d) passed a qualifying evaluation by the Council.

Renewal of certificate of registration

67. (1) A certificate of registration is valid for three years and shall be renewed subject to this Part.

(2) The certificate of registration shall be renewed by the practitioner every three years before the 31st of December of the following calendar year.

Annual list of practitioners

68. The Registrar shall publish the list of registered practitioners annually in the *Gazette*.

Establishment of register

69. (1) The Board shall establish and keep a register in a form it may determine and shall record in it

(a) the unique identification number of a practitioner, (b) certificates issued under this Act,

(c) suspension and cancellation of certificates, and

(d) other information relating to the certificates that the Board considers appropriate.

(2) A person may require the Board to supply to that person an extract from any part of the register on payment of a fee.

Removal and restoration of names from register

70. (1) The Registrar shall on the recommendations of the Board remove from the register the name of a person

(a) who is dead,

(b) who has been found guilty of professional misconduct by the Disciplinary Committee of the Council, and

(c) who has not paid the prescribed fee.

(2) The name of a person may be restored to the register by the Registrar as directed by the Board.

Suspension of registration

71. The Board may suspend the registration of a practitioner where (a) an offence or allegation of professional misconduct in relation to the practitioner is being investigated, (b) a false declaration has been made in an application for registration issued to the practitioner, or

(c) the practitioner has contravened a provision of this Part.

Cancellation of registration

72. The Board shall cancel the registration of a practitioner on the recommendation of the Disciplinary Committee of the Council where the practitioner

(a) is convicted of an offence under this Part or the Regulations,

(b) has lost the qualification on the basis of which the registration was made, or

(c) is convicted to a term of imprisonment for a criminal offence.

Representation to the Board and appeal

73. (1) Registration shall not be suspended unless the Board has given the practitioner at least thirty days notice of its intention to suspend the registration and has provided the practitioner an opportunity to make a representation to the Board.

(2) Registration shall not be cancelled unless the Board has given the practitioner at least thirty days notice of its intention to cancel the registration.

(3) A person dissatisfied with a decision of the Board may appeal to the High Court.

Licensing

Requirement of licence for operation of ambulance services

74. (1) Subject to this Part, a person shall not establish, operate or otherwise provide an ambulance service unless that person has been granted a licence for that purpose by the Board.

(2) The ambulance services required to be provided under this Part are specified in the Second Schedule.

Qualification for licence

75. A licence under this Part may only be granted
- to (a) a citizen,
 - (b) a body corporate registered under the Companies Act, 1963 (Act 179) or under any other law,
 - (c) a partnership registered under the Incorporated Private Partnerships Act, 1962 (Act 152), or
 - (d) a foreign individual or foreign company in a registered joint venture relationship with a citizen of Ghana or a Ghanaian company.

Application for a licence

76. A person may apply to the Board for a licence in the manner determined by the Board with the prescribed fee.

Issue of a licence

77. (1) Where an applicant meets the conditions required by this Part for a licence to establish, operate or otherwise provide an ambulance service, the Board shall approve the application and issue the applicant with the licence to provide the approved ambulance service.

(2) Despite subsection (1), the Board may for reasons in the public interest, public safety or public security decide not to issue an applicant with a licence and shall inform the applicant of its decision within thirty days.

(3) A licence issued is valid for a period of three years and may be renewed.

(4) A licence issued under this Part shall bear a unique identification number to be used by the facility in transactions.

Renewal of a licence

78. (1) An application for the renewal of a licence shall be made to the Board not later than two months prior to its expiry and in the manner determined by the Board.

(2) An applicant who seeks to renew a licence shall pay the prescribed fee prior to the issue of the licence.

(3) A licensee who fails to renew a licence or whose application for renewal is rejected by the Board shall cease to provide the ambulance service within thirty days after the expiration of the licence

Use of ambulance and siren

84. (1) A person shall not operate or use an ambulance licensed for the provision of ambulance services for a purpose other than that related to a service specified in the Second Schedule.

(2) A person who drives an ambulance shall ensure that the emergency lights and siren of the ambulance are on only when it is in operation.

(3) An ambulance shall not be used as a hearse.

(4) A person who contravenes subsection (1), (2) or (3) commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment of not more than two years or to both.

Requirement of inscription and siren device

85. (1) A licensee who intends to use a vehicle designed for the purpose of operating or providing an ambulance service shall prior to the use of that vehicle ensure

(a) that the inscription "ambulance" is conspicuously displayed on the trunk of the vehicle,
and

(b) the vehicle has the siren signal device installed on it.

(2) A person who contravenes subsection (1) is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment of not more than two years or to both.

Training of pre-hospital care persons

86. The Board shall approve the teaching of pre-hospital care by an accredited practitioner or institution.

Entry of premises

87. A person authorised by the Board may enter premises at a reasonable time to inspect the registration of a practitioner, if that person has reasonable cause to believe that an offence under this Part has been or is about to be or is being committed on the premises.

Inspectors

88. (1) For the purposes of this Part, inspectors may be appointed for the Board.

(2) An inspector appointed under this Part shall carry out the functions that the Board may determine.

(3) An inspector authorised by the Board may at reasonable times enter premises or an ambulance used or suspected to be used by a practitioner to investigate activities there.

Obstruction of inspector

89. (1) A person shall not obstruct an authorised inspector in the conduct of duties under this Part.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units and not more than five hundred penalty units or to a term of imprisonment of not more than two years or to both.

Right of way to ambulance

90. (1) Every road user shall give clear and uninterrupted passage to an ambulance being driven which has its siren and emergency lights activated.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units and not more than five hundred penalty units or to a term of imprisonment of not more than two years or to both.

Regulations

91. (1) The Minister may, on the advice of the Board, by legislative

instrument make Regulations to

(a) prescribe the conditions for registration of practitioners; (b) prescribe practice standards for practitioners;

(c) provide for discipline of practitioners;

(d) prescribe the fees to be paid under this Part;

(e) provide for guidelines for surveillance of accidents and emergencies;

(f) prescribe the designated standards of equipment used in ambulances;

(g) provide for the needs of persons physically challenged in ambulance services;

(h) prescribe accreditation standards for training institutions for practitioners;

(i) amend the Second Schedule; and

(j) provide for any other matter necessary for the effective implementation of the provisions of this Part.

(2) A person who commits an offence under the Regulations is liable on summary conviction to a fine of not more than five thousand penalty units.

"relevant institution" includes the National Disaster Management Organisation, the St. John Council of Ghana, the Ghana Red Cross Society; and an institution which for the purposes of this Part needs to collaborate with the Council.

"road" includes other passage; and

"vehicle" means a mechanically-propelled device.

Transitional provision

93. A person who owns or operates an ambulance service immediately before the commencement of this Act shall subject to this Part, apply within three months from the date of the commencement of this Act for the grant of a licence.

PART FOUR-ADMINISTRATIVE AND FINANCIAL PROVISIONS

Tenure of office of members of the Board

94. (1) A member of the Board shall hold office for a period not exceeding three years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

(2) Subsection (1) does not apply to the Registrar of the Agency or Council.

(3) A member of the Board may at any time resign from office in writing addressed to the President through the Minister.

(4) A member of the Board who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.

(5) The President may by letter addressed to a member revoke the appointment of that member.

(6) Where a member of the Board, is for a sufficient reason unable to act as a member, the Minister shall determine whether the inability would result in a declaration of a vacancy.

(7) Where there is a vacancy

(a) under subsection (3) or (4) or section 96;

(b) as a result of a declaration under subsection (6); or (c) by reason of the death of a member

the Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

Meetings of the Board

95. (1) The Board shall meet at least once every three months for the despatch of business at the times and in the places determined by the chairperson.

(2) The chairperson shall at the request in writing of not less than one-third of the members of the Board convene an extraordinary meeting of the Board at the place and time determined by the chairperson.

(3) The quorum of a meeting of the Board is five members of the Board or a greater number determined by the Board in respect of an important matter.

(4) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board elected by the members present from among their number shall preside.

(5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Board may co-opt a person to attend a Board meeting but that person shall not vote on a matter for decision at the meeting.

(7) The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

Disclosure of interest

96. (1) A member of the Board who has an interest in a matter for consideration (a) shall disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) shall not participate in the deliberations of the Board in respect of that matter.

(2) A member ceases to be a member of the Board, if that member has an interest in a matter before the Board and

(a) fails to disclose that interest, or

(b) participates in deliberations of the matter.

Establishment of committees

97. The Board may establish committees consisting of members of the Board or non members or both to perform its functions.

Allowances

98. Members of the Board and members of a committee of the Board shall be paid the allowances approved by the Minister in consultation with the Minister responsible for Finance.

Ministerial directives

99. The Minister may give policy directives in writing to the Board.

Registrar

100. (1) The President shall appoint a Registrar for the Agency or the Council in accordance with article 195 of the Constitution.

(2) The Registrar shall be a practitioner with considerable administrative and managerial experience or training.

(3) The Registrar shall hold office on the terms and conditions specified in the letter of appointment.

Functions of the Registrar

101. (1) The Registrar is responsible for the day to day administration of the affairs of the Agency or Council and is answerable to the Board in the performance of functions under this Act.

(2) The Registrar shall perform any other functions determined by the Board.

(3) The Registrar may delegate a function to an officer of the Agency or Council but is not relieved from ultimate responsibility for the performance of a delegated function.

(4) The Registrar shall be the secretary to the Board.

Appointment of other staff

102. (1) The President shall, in accordance with article 195 of the Constitution, appoint other staff of the Agency or Council.

(2) The Agency or Council shall have any other officers and staff that are necessary for the proper and effective performance of its functions.

(3) Other public officers may be transferred or seconded to the Agency or Council or may otherwise give assistance to it.

(4) The Agency or Council may engage the services of advisers on the recommendation of the Board.

Funds of the Agency or Council

103. The funds of the Agency or Council include (a) moneys provided by Parliament,

(b) donations, grants and loans,

(c) service fees, and

(d) any other moneys that are approved by the Minister responsible for Finance.

Accounts and audit

104. (1) The Board shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.

(2) The Board shall submit the accounts of the Agency or Council to the Auditor-General for audit within three months after the end of the financial year.

(3) The Auditor-General shall, not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

(4) The financial year of the Agency or Council shall be the same as the financial year of the Government.

Annual reports

105. (1) The Board shall, within one month after the receipt of the audit report, submit an annual report to the Minister covering the operations of the Agency or Council for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall within one month after the receipt of the annual report submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Board shall also submit to the Minister any other reports which the Minister may require in writing.

Interpretation

106. In this Part unless the context otherwise requires,

"Agency" means the Health Facilities Regulatory Agency and the Mortuaries and Funeral Facilities Agency;

"Board" means the governing body of the Health Facilities Regulatory Agency, the governing body of the Mortuaries and Funeral Facilities Agency and the governing body of the Ambulance Council; and

"Council" means the Ambulance Council.

FIRST SCHEDULE

(Section 11 (2))

Facilities to be licenced

The following facilities shall be licenced under this Act: (a) medical and dental (clinics and hospital); (b) eye care clinics;

(c) convalescent and nursing homes; (d) geriatric homes;

(e) maternity homes;

(f) occupational therapy clinics; (g) physiotherapy clinics;

(h) dental technology laboratory;

(i) clinical and bio-medical laboratory (j) medical assistant clinics;

(k) diagnostic-imaging technology clinics; (l) pharmacies and chemical shops; (m) osteopathy clinics;

(n) prosthetics and orthotics clinics; and

(o) any other health care clinic or premises that may be determined by the Minister.

SECOND SCHEDULE

(Section 74 (2) and 80 (1))

(Ambulance services to be provided) Ambulance services required to be provided under this Act are:

(a) 24-hour standby service to respond to 193 and other emergency calls;

(b) pre-hospital care during emergency response; (c) transportation of patients to and from hospital;

(d) provision of services for public and private gatherings; (e) training of Emergency Medical Technicians;

(f) training of First Responders;

(g) promotion of training for health professionals in life support courses;

(h) promotion of first aid training to the general public; and (i) provision of reliable and timely information for effective ambulance operation countrywide.

Date of *Gazette* notification:

Health Institutions and Facilities Act, 2011 Act 829

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SCHEDULES

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

HEALTH INSTITUTIONS AND FACILITIES ACT, 2011

AN ACT to provide for a Health Facilities Regulatory Agency to license facilities for the provision of public and private health care services, to establish the Mortuaries and Funeral Facilities Agency to control and regulate facilities connected with the storage and disposal of human remains, to establish an Ambulance Council to regulate the operation of ambulance services in the country in accordance with policy standards and to provide for related matters.

DATE OF ASSENT:

PASSED by Parliament and assented to by the President:

Application

1. This Act binds the Republic.

PART ONE -HEALTH FACILITIES REGULATORY AGENCY

Establishment of the Agency Establishment of

the Agency

2. (1) There is established by this Act a body corporate with perpetual succession to be known as the Health Facilities Regulatory Agency.

(2) Where there is hindrance to the acquisition of property, the property may be acquired for the Agency under the State Property and Contracts Act, 1960 (C. A. 6) or the State Lands Act, 1962 (Act 125) and the costs shall be borne by the Agency.

Object of the Agency

3. The object of the Agency is to license and monitor facilities for the provision of public and private health care services.

Functions of the Agency

4. The functions of the Agency are to
- (a) receive, consider and approve applications for licences under this Part;
 - (b) inspect and license facilities intended for the provision of public and private health care services;
 - (c) determine the basic and minimum equipment and personnel required for the type of service to be provided in a practice; (d) regulate and monitor activities in a practice to determine the adequacy and standard of health care provided;
 - (e) collaborate with any other person or authority to
 - (i) maintain professional standards in a practice;
 - (ii) regularly assess health facilities for certification and accreditation;
 - (iii) achieve continual quality improvement of health care providers; and
 - (f) perform any other functions that are ancillary to the object of the Agency.

Governing body of the Agency

5. (1) The governing body of the Agency is a Board consisting of
- (a) one representative from a public health facility nominated by the Minister in consultation with the relevant professional body,
 - (b) one representative from the National Health Insurance Authority not below the rank of a Director,
 - (c) one representative from the Attorney-General's Department, not below the level of a Principal State Attorney,
 - (d) one bio-medical engineer nominated by the Minister in consultation with the Ghana Institution of Engineers,
 - (e) one representative of the Ministry of Health nominated by the Minister,
 - (f) the Registrar, and
 - (g) three other persons nominated by the Minister which shall include a nursing officer of a senior rank and a private medical practitioner.

(2) The President shall.

- (a) appoint the members of the Board in accordance with article 70 of the Constitution;
- (b) have regard to gender in the appointment of members of the Board; and
- (c) select one of the members to be chairperson.

(3) The Board shall ensure the proper and effective performance of the functions of the Agency.

Zonal Health Facilities Committees

Establishment of Zonal Health Facilities Committees

6. There shall be established Zonal Health Facilities Committees.

Composition of a Zonal Committee

7. (1) A Zonal Committee shall comprise not more than five members with the relevant qualification, expertise and experience at least one of whom is a woman.

(2) The members of a Zonal Committee shall be appointed by the Board.

Functions of a Zonal Committee 8. A Zonal Committee shall,

- (a) receive applications on behalf of the Board and make recommendations to the Board for the licensing of facilities for a practice;
- (b) monitor the operations of licenced facilities in the zone; (c) receive licencing fees on behalf of the Board;
- (d) inspect a facility and the equipment to be used in a practice; (e) appraise the technical specifications of a facility for a licence;
- (f) effect a temporary closure of a facility with the assistance of a senior police officer not below the rank of Assistant Superintendent of Police;
- (g) submit a report of a contravention of a provision of this Part to the Board within fourteen days of becoming aware of the contravention;
- (h) submit quarterly reports on its activities to the Board; and (i) perform any other function assigned to it by the Board.

Tenure of office and meetings of a Zonal Committee

9. The provisions of sections 94 and 95 relating to tenure of office and meetings of the Board under this Act shall apply with the necessary modifications to the tenure of office and meetings of a Zonal Committee.

Petitions from a Zonal Committee

10. (1) A person aggrieved by a decision or an action of a Zonal Committee may submit a petition to the Board.

(2) The Board shall

- (a) consider the petition within fourteen days of receipt of the petition; and
- (b) communicate its decision to the aggrieved person within thirty days after consideration of the petition.

(3) Subsection (1) does not limit a right of action to obtain redress from the Court.

Licensing of facilities

Facilities to be licensed

11. (1) A person shall not operate a facility unless the facility is licensed under this Act.

(2) A person shall not operate equipment in a facility specified in the First Schedule unless the facility in which the person operates is licensed under this Act.

Application and conditions for a licence

12. (1) A person shall apply to the Agency for a licence within the area in which the practice is to be operated in the form determined by the Board.

(2) There shall be attached to the application

(a) the block plan of the facility for the practice;

(b) preliminary approval from the district planning authority of the District Assembly on the suitability of the land and facility to be used for the practice;

(c) clearance from the Environmental Protection Agency; (d) plans for the disposal of medical waste;

(e) copies of certificates of proposed practitioners in the practice and proof of their registration with the appropriate professional bodies;

(f) a list of the types of services to be rendered;

(g) a list of equipment in the practice with their technical specifications;

(h) evidence of financial capability for the ownership and operation of the practice applied for;

(i) the prescribed fee; and

(j) any other requirement specified by the Board.

(3) A licence shall not be granted to an applicant for a facility unless the Agency is satisfied that

(a) the applicant or managing employee of the applicant has at least five years post qualification experience in a recognised institution of relevance to the profession of the practice;

(b) the past and present conduct of the person concerned with the operation of the practice provides reasonable grounds to believe that the applicant will operate in accordance with this Part;

(c) the applicant is able to provide the resources and equipment required to operate the practice; and

(d) any other requirement specified by the Board has been complied with.

(4) The person concerned with the operation of the practice in subsection (3) (b) for a facility includes (a) the applicant,

(b) an officer or director of the practice,

(c) a person who has equity shares in the practice or an officer or a director, or

(d) a person who has a beneficial interest in the operation of the practice.

Application by non-citizen

13. (1) Subject to section 12, a person who is not a citizen may apply to the Agency to own or operate a practice in a facility if that person (a) possesses a valid work permit issued by the Minister for the Interior,

(b) is registered with the appropriate regulatory professional body in Ghana,

(c) has at least five years post qualification experience in a recognised institution of relevance to the profession of the practice,

(d) has a Ghanaian professional in a similar discipline as a business partner, and

(e) has fulfilled any other conditions set by the Board.

(2) A person who is not a citizen shall not own or operate a facility unless that person has practised in the profession in the country for at least one year in a recognised institution.

Issue of licence

14. (1) Where a Zonal Committee is satisfied that an applicant has fulfilled the required conditions, it shall recommend to the Board to issue a licence to the applicant.

(2) The Registrar may issue a provisional licence within thirty days of receipt of the application and the Board shall issue the licence on or before the next quarterly meeting of the Board after receipt of the recommendation from the Zonal Committee.

(3) A provisional licence issued by the Registrar is valid for six months from the date of issue.

(4) A licence issued by the Board is valid for three years after the date of issue and may be renewed subject to this Act.

(5) The applicant shall pay the prescribed fee in respect of the licence or a renewal of it.

Revocation of licence

15. The Board may on its own or on the recommendation of a Zonal Committee revoke or refuse to renew a licence for a practice if

- (a) the state of the facility disqualifies the licensee from being granted a licence; or
- (b) it has reasonable grounds to believe that the continued operation of the Practice by the licensee will create a risk to public health, public safety or is indecent.

Notice of refusal to issue or renew a licence

16. (1) Where the Board intends to refuse to issue or renew a licence,
- the Board shall give the applicant or licensee (a) a notice of intention to refuse,
- (b) reasons for the intention to refuse, and
 - (c) an opportunity to make a representation to the Board.

(2) Where a licence is either refused or revoked the applicant or the licensee shall be informed of the reason within four weeks of the refusal or revocation.

Representations to the Board

17. (1) An applicant or licensee who receives a notice under section 15 (a) may make a representation to the Board within twenty-one days after the date of receipt of the notice of refusal.

(2) Where a representation is not made, the Board may refuse to issue or renew the licence or may revoke the licence after the time specified in the notice has expired.

(3) Where representation is made to the Board the affected practice shall operate under the supervision of a person or body appointed by the Board until the Board determines the case within a reasonable time.

(4) A person who is aggrieved by the refusal of the Board to issue or renew a licence may seek redress in Court.

Application of additional services

18. An owner or operator of a practice shall apply to the Board for the provision of additional services which were not listed in the original application.

Display of licence

19. A licence issued under this Part shall be displayed in a prominent place which is accessible to patients and clients in the premises of the practice.

Submission of health service data

20. The licensee of a practice shall submit health service data to the Ministry every three months or as directed in writing by the Minister.

Power of entry and inspection

21. (1) An inspector may at any time enter facilities used for a practice

and shall inspect

(a) the licence, registers and books of the practice, (b) the facility including the equipment, and

(c) any other thing which is relevant to the practice and make recommendations to the Board.

(2) The inspector shall at the request of the person in charge of the practice or facility produce an identity and authorisation from the Board for the inspection.

(3) The Board shall cause a practice to be inspected at least once a year.

(4) A police officer not below the rank of an Assistant Superintendent may enter any premises if there is reasonable cause to believe that an offence with respect to this Part has been, is being or is about to be committed on the premises and may arrest the offender.

(5) The Board shall order the closure of a facility or a part of the facility if it is considered in the public interest to do so.

(6) This section shall not be construed as authorising the inspection in a practice of a medical record relating to a patient unless authorised by a Court.

Obstruction of inspector

22. A person shall not obstruct an inspector in the discharge of duties under this Part.

Miscellaneous provisions

Offences

23. A person who

(a) owns a practice and operates in an unlicensed facility,

(b) fails to renew a licence and continues to practice,

(c) provides unauthorised services in a licensed facility,

(d) prevents an authorised person from closing down the practice,

Offences

23. A person who

(a) owns a practice and operates in an unlicensed facility,

(b) fails to renew a licence and continues to practice

(c) provides unauthorised services in a licensed facility,

(d) prevents an authorised person from closing down the practice,

(e) obstructs the entry for inspection of an inspector,

(f) breaches a condition of a provisional licence issued by the Registrar,

(g) breaches a condition of a licence issued by the Board,

(h) makes a false declaration on an application form for a licence,

(i) provides the Board with false information concerning the premises or practice,

(j) practices in a facility without the appropriate registration, (k) fails to submit a health service data required under section 20 to the Ministry,

(l) poses as an inspector to obstruct a licenced service provider; or (m) contravenes any other provision of this Part,

commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units or to a term of imprisonment of not more than ten years or to both and in the case of a continuing offence, to a further fine often penalty units for each day during which the offence continues after written notice has been served on the offender by the Board and the Court may order the temporary or permanent closure of the facility.

Regulations

24. (1) The Minister, may on the advice of the Board, by legislative instrument, make Regulations to

(a) provide for the supervision and inspection of premises;

(b) provide for the prescription of safety standards for premises and sanitary arrangements of a practice;

(c) regulate the accommodation and appropriate equipment for each type of practice;

(d) provide for the prevention of the spread of infectious

diseases;

(e) prescribe the registers and records to be kept in a facility; (f) prescribe the fees to be paid for the licensing of facilities; (g) regulate the preparation and storage of food and other

logistics;

(h) prescribe the registers and records to be kept in respect of patients;

(i) prescribe the notification of deaths, births, stillbirths, miscarriages and abortions to the appropriate authority;

(j) prescribe the records to be kept when a child who is born in a health facility is discharged or otherwise leaves the hospital without authority;

(k) prescribe the type of health data to be submitted to the Ministry and the mode of keeping the data;

(l) prescribe additional health care services to be registered under this Part;

(m) provide for the conditions for the issuance and renewal of a licence;

(n) provide for the accreditation of facilities;

(o) provide for the disposal of medical waste; and

(p) provide for any other matter necessary for the effective implementation of this Part.

(2) A person who commits an offence under the Regulations is liable on summary conviction to a fine of not more than five thousand penalty units.

Interpretation

25. In this Part unless the context otherwise requires,

"Agency" means the Health Facilities Regulatory Agency; "allopathic medicine" means a system of medical practice that is based on application of rational scientific evidence and enquiry which has been the dominant practice since the 19th century and is also referred to as western or orthodox medicine;

"Board" means the governing body of the Agency; "convalescent home" means an institution where a patient can be admitted for a short stay for complete recovery after having been admitted and discharged from a hospital; "district" includes the area of authority of a District Assembly

and a municipal and metropolitan authority;

"facility" means premises used for a practice;

"geriatric home" means a home for the aged;

"health care services" means allopathic medicine;
"hospital" includes a clinic which has lying-in facilities; "inspector" means a person authorised by the Board under this

Part;

"licence" means a licence for the operation of a practice; "lying-in facility" means a place where provision is made for nursing care, investigative service and any other medical services;

"maternity home" means a building or any other premises where provision is made for medical attention or nursing facilities before, during or after childbirth whether gratuitously or for a fee;

"medical assistant" means a person registered under the relevant law who is trained and recognised by the Ministry of Health to do medical screening and treatment in health posts, clinics and hospitals;

"medical waste" means waste generated from a practice; "Minister" means the Minister responsible for Health; "nursing home" means an institution for taking care of people who cannot be kept in or returned to their own homes after treatment in a hospital;

"practice" includes medical and dental services, services in clinics and hospitals, services in pharmacies and chemical shops, optometry and optician services, chiropody, convalescent and nursing homes services, community health services, geriatric homes, nursing care, nursing agencies, maternity homes and occupational therapy services, physiotherapy services, dental laboratory technology services, clinical and bio-medical laboratory technology services, ophthalmic nursing services and physician assistant services;

"practitioner" means a person registered with the appropriate regulatory professional body in Ghana under the relevant law who is capable of functioning in a practice; "premises" includes a house, building, structure, tent, caravan, land, ship, boat, an aircraft and a mechanically propelled vehicle;

"prescribe" means prescribed by Regulations;

"recognised institution" means an institution that is approved by the Board, the Pharmacy Council, the Medical and Dental Council or the Ministry of Health which has the requisite facilities and staff to provide community health care services, district health care services and specialised health care services in the relevant discipline or profession;

"Regulations" means the Regulations made under this Act; "regulator" means the Private Hospitals and Maternity Homes Board established under the Private Hospitals and Maternity Homes Act, 1958 (No. 9) and the Pharmacy Council established under the Pharmacy Act, 1994 (Act 489);

"unauthorised practice" means services in facility that is not registered with the Board, or services that a facility has not been registered to perform; and

"Zonal Committee" means a Zonal Health Facilities Committee which is made up of a team from a district or a group of districts within a region.

Transitional provisions

26. (1) A person who operates a health facility before the commencement of this Act, shall apply for a licence to operate the facility after the expiration of the existing licence.

(2) An application for a licence pending before a regulator before the commencement of this Act shall be processed by the regulator.

(3) The Pharmacy Council shall transfer to the Agency any information , knowledge, materials and staff necessary for the efficient and effective performance of the functions of the Agency within five years after the commencement of this Act

(4) The Board shall be established by the President within three months after the commencement of this Act.

Repeal and savings

27. (1) The Private Hospitals and Maternity Homes Act, 1958 (No.9) is hereby repealed.

(2) The register of practitioners in use immediately before the commencement of this Act and each document prepared or issued under the Private Hospitals and Maternity Homes Act, 1958 (No.9) shall continue in force as if kept, prepared or issued under the corresponding provisions of this Act.

28. (1) There is established by this Act a body corporate with perpetual succession to be known as the Mortuaries and Funeral Facilities Agency

(2) Where there is hindrance to the acquisition of property, the property may be acquired for the Agency under the State Property and Contracts Act, 1960 (C. A. 6) or the State Lands Act, 1962 (Act 125) and the costs shall be borne by the Agency.

Object of the Agency

The object of the Agency is to licence, control and regulate facilities connected with the storage, transportation and disposal of human remains

PART TWO-MORTUARIES AND FUNERAL FACILITIES AGENCY

Establishment of the Agency

Establishment of the Agency

Functions of the Agency

30. (1) The functions of the Agency are to (a) regulate facilities under this Part; (b) licence and register practitioners; (c) determine basic specifications of equipment for facilities; (d) ensure in the public interest the provision of the highest

standards of service by practitioners;

(e) regulate the siting of facilities in the country; (f) issue licences for facilities;

(g) categorise and classify the various facilities for handling human remains;

(h) establish, develop and maintain practice standards for practitioners;

(i) establish standards and provide guidelines for the development of curriculum for training of practitioners in collaboration with training institutions;

OJ approve courses of study and examinations for the qualification of applicants for registration in collaboration with educational institutions;

(k) promote public educational activities with respect to this Part;

(l) supervise and monitor activities of the Zonal Mortuaries and Funeral Facilities Committees under this Part; (m) investigate complaints and take appropriate actions;

(n) control and monitor the standards of service for storage and disposal of human remains in public and private institutions; and (o) perform any other functions that are ancillary to the object of the Agency.

(2) The Agency may delegate any of its functions to a person or an authority that it may determine.

Governing body of the Agency

31. (1) The governing body of the Agency is a Board consisting of (a) a pathologist preferably an anatomic pathologist nominated by the Minister as chairperson,

(b) the Registrar,

(c) one representative from the Births and Deaths Registry not below the rank of a Director,

(d) one representative from the Ministry responsible for Local Government and Rural Development not below the rank of a Director,

(e) one representative from the Environmental Protection Agency not below the rank of a Director,

(f) one practitioner under this Part with relevant professional background nominated by the Minister in consultation with the professional body,

(g) one representative of the Attorney-General not below the level of Principal State Attorney, and

(h) two other persons at least one of whom is a woman nominated by the Minister.

(2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

(3) The Board shall ensure the proper and effective performance of the functions of the Agency.

Zonal Mortuary and Funeral Facilities Committees

Establishment of Zonal Mortuary and Funeral Facilities Committee 32. There is hereby established Zonal Mortuary and Funeral Facilities Committees.

Composition of a Zonal Committee

33. (1) A Zonal Committee shall consist of (a) a Chairperson,
- (b) a District Director of Health Services who shall be the Secretary,
 - (c) a police officer not below the rank of Assistant Superintendent, (d) one representative of the District Assembly from the relevant committee,
 - (e) a district representative of the Registrar for Births and Deaths, and
 - (f) two representatives of practitioners elected by the practitioners at least one of whom is a woman
- (2) The chairperson and members of a Zonal Committee shall be appointed by the Board.

Functions of a Zonal Committee

34. (1) A Zonal Committee shall, in the respective zone (a) issue temporary licences for facilities;
- (b) inform the Board of the temporary licences issued;
 - (c) decide on the siting of facilities, hold public hearings on the issue where necessary and inform the Board;
 - (d) inspect facilities;
 - (e) submit a report of a contravention of a provision of this Act to the Board within fourteen days of becoming aware of the contravention;
 - (f) carry out temporary closure of facilities and report the closure to the Board;
 - (g) maintain a list of facilities operating in the zone; (h) submit to the Board the reports it shall direct; and

(i) perform any other functions determined by the Board.

(2) A Zonal Committee in the performance of its functions shall collaborate with the relevant sub-committees of the District Assembly.

(3) Sections 94 and 95 shall apply with the necessary modification to a Zonal Committee.

Petitions from Zonal Committees

35. (1) A person aggrieved by a decision or an action of a Zonal Committee may submit a petition to the Board.

(2) This section does not limit a right of action to obtain redress from the Court.

Registration of practitioners

Registration of practitioners

36. A person other than a registered pathologist shall not operate in a facility as a practitioner unless that person is registered under this Part.

Application for registration

37. A person shall apply for registration to practice in the prescribed form through the Registrar of the Agency.

Qualification of practitioners

38. (1) Where the Board is satisfied that the applicant has adequate relevant training, qualification or experience, it shall direct the Registrar to record the name of the applicant in the register of practitioners.

(2) The Registrar shall issue the applicant with a certificate of registration on the payment of the prescribed fee.

(3) A person issued with a certificate under subsection (2) is known as a practitioner for the purposes of this Part.

(4) Registration under this Part is in addition to registration required under any other law in respect of the practice.

(5) The certificate of registration is valid for three years from the date of issue.

(6) The certificate shall be renewed subject to this Part.

Register of practitioners

39. The Registrar shall record in a register the names and any other particulars of practitioners.

Cancellation of registration

40. (1) A certificate of a practitioner shall be cancelled by the Board on the recommendations of the Registrar where the practitioner

- (a) is convicted of an offence under this Part or the Regulations,
- (b) has breached any of the terms of the licence for the facility,
- (c) no longer has the qualification on the basis of which the

registration was made, or

(d) is sentenced to a term of imprisonment for a criminal offence.

(2) The Board may, in the public interest, cancel the certificate of a practitioner.

Suspension of registration

41. (1) The Board may suspend the registration of a practitioner for a period determined by the Board where

- (a) an offence in relation to the practitioner is being investigated, (b) an allegation of misconduct has been made against the practitioner,
- (c) a false declaration has been made in a certificate issued by the practitioner, or
- (d) the practitioner has contravened but has not been convicted of a provision of this Part.

(2) The Board shall conclude its investigation within a period of six months from the time of the suspension of the practitioner.

(3) The Board may restore the registration of a practitioner.

Representation to the Board

42. (1) A practitioner whose registration is cancelled or suspended may make a representation to the Board within sixty days after the cancellation or suspension.

(2) The Board may refuse to restore the registration of a practitioner after the time specified to make the representation has expired.

(3) Where successful representation is made to the Board, the registration of the practitioner shall be restored by the Board.

Licensing of facilities Licence of facility

43. (1) A person shall not own or operate a facility unless that facility is licensed under this Part.

(2) Facilities required to be licensed are

(a) cold storage facilities for human remains; (b) mortuaries;
(c) funeral homes; (d) crematoria;

(e) columbaria;

(f) mausoleums; (g) cemeteries;

(h) hearses; and

(i) any other facility that the Minister may determine on the recommendation of the Board.

Application and conditions for a licence

44. (1) A person may apply to the Board for a licence to own or operate a facility.

(2) There shall be attached to the application

(a) a preliminary approval from the district planning officer of the suitability of the land or premises to be used for the facility, (b) the block plan of the facility,

(c) clearance from the Environmental Protection Agency, and (d) evidence of financial capability for the ownership or operation of the facility applied for.

(3) A licence shall not be granted to an applicant unless the Board is satisfied that

(a) the past or present conduct of the applicant concerned with the operation of the facility provides reasonable grounds to believe that the applicant will operate in accordance with this Part, (b) the applicant has the experience or training to manage the facility in accordance with this Part,

(c) the applicant has submitted a plan of the facility,

(d) the applicant is able to provide the resources and equipment required to manage the facility, and

(e) any other requirement specified by the Board has been complied with.

Issue and renewal of licence

45. (1) Where the Registrar is satisfied that an applicant qualifies under subsection (3) of section 44 and has fulfilled the other conditions required under this Act, it shall issue a provisional licence and inform the Board.

(2) A provisional licence is valid for six months.

(3) A licence issued by the Board is valid for three years from the date of issue and may be renewed subject to this Act.

(4) The licence shall be displayed in a prominent place in the facility which is accessible to a client.

Revocation of licence

- 46.** The Board may refuse to renew a licence to own or operate a facility if
- (a) the state of the licensee disqualifies the applicant from being granted a licence;
 - (b) the licensee is a body corporate and the shareholding of that body has changed in such a way as to compromise the financial ability or technical competence and standards of that body; or
 - (c) the Board has reasonable grounds to believe that the continued operation of the facility by the licensee compromises or is likely to compromise the public interest, public health, public safety or is indecent.

Notice of refusal to renew licence

47. Where the Board intends to refuse to renew a licence, the Board shall give the applicant or licensee

- (a) a notice of intention to refuse,
- (b) reasons for the intention to refuse, and
- (c) an opportunity to make representations to the Board.

Representations to the Board

48. (1) An applicant or licensee who receives a notice under section 47 may make a representation to the Board within sixty days after the date of receipt of the notice of refusal.

(2) Where a representation is not made under subsection (1), the Board may refuse to renew a licence or may recommend the revocation of the licence after the time specified under subsection (1) has expired.

(3) Where a representation is made under this section, the affected facility shall be closed and shall not operate until the case is determined by the Board and the licence is restored.

Power of entry and inspection

49. (1) An inspector authorised by the Board may at any time, on production of an identity enter and inspect

- (a) the licensed facilities under in section 43 (2), or

(b) premises suspected by the authorised person to be facilities required to be licensed under section 43 (2).

(2) The inspector shall inspect as applicable

(a) the facility including plant and equipment, (b) the licence, registers and books of the facility, (c) the registration certificate of the practitioner, (d) the premises, and

(e) any other thing which is relevant to the facility and make recommendations to the Board.

(3) The Board may order the closure of a facility if it is considered to be in the public interest to do so.

Obstruction of inspector

50. A person shall not obstruct an authorised inspector in the performance of a function under this Act.

Burial grounds

Authorised burial grounds

51. (1) A person shall not bury the human remains of a person in a place other than a burial ground authorised under this Part.

(2) A burial ground authorised under this Part shall be registered with the Zonal Committee.

District Assembly to provide burial grounds

52. A District Assembly shall, on the advice of a Zonal Committee, provide public burial grounds which shall be licenced under this Part.

Private burial grounds

53. (1) A District Assembly shall, on the advice of a Zonal Committee, license as a private burial ground any parcel of land which a person may wish to set aside as a private burial ground.

(2) There shall be attached to the licence, conditions determined by the District Assembly in consultation with its sub-committee.

Exhumation

54. (1) The Board through the Minister and in consultation with the relevant District Assembly may apply to the coroner to order the exhumation of human remains and the removal of the human remains to a place it shall direct.

(2) Subject to the Coroners Act, 1960 (Act 18) a person shall not exhume or remove any human remains after burial except under subsection (1).

55. A person who

(a) practices in a facility without registering as a practitioner

except a licenced pathologist;

(b) uses a facility for services other than what it is licensed for,

(c) fails to license a facility;

(d) makes a false declaration in an application for registration or for a licence;

(e) fails to renew the registration or licence to operate a facility;

(f) obstructs an inspector;

(g) pollutes the environment in the course of operations under this Part;

(h) accepts, releases or disposes of human remains in contravention of a provision of the Regulations;

(i) buries human remains in a place other than an authorised burial ground;

(j) exhumes or after burial, removes any human remains without authority; or

(k) contravenes any other provision of this Part;

commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment and the Court may order temporary or permanent closure of the facility.

Regulations

56. (1) The Minister may, by legislative instrument, make Regulations (a) for the supervision and inspection of facilities;

(b) prescribing the standards of sanitary, safety and security arrangements of a facility;

(c) specifying details and methods of rendering services by facilities;

(d) for the management, accommodation and equipment of a facility;

(e) for the preparation and storage of chemical reagents and human remains in facilities;

(f) for procedures to disinfect facilities and prevent infection; (g) prescribing the records to be kept in the facilities in respect

of human remains;

(h) regulating the admission and discharge of human remains; (i) prescribing fees to be paid under this Part;

(j) related to

(i) embalming, (ii) cremation, (iii) exportation,

(iv) importation, and

(v) burial of human remains, and

(k) to provide for any other matter necessary for the effective implementation of the provisions of this part.

(2) A person who commits an offence under the Regulations is liable on summary conviction to a fine of not more than five thousand penalty units.

57. In this Part unless the context otherwise requires,

"Agency" means the Mortuaries and Funeral Facilities Agency; "applicant" in accordance with section 44 (3) includes

(a) a managing employee,

(b) a person holding more than ten per cent of the equity shares of the facility or a managing employee, and (c) a person who has a beneficial interest in the operation of the facility;

"Board" means the governing body of the Mortuaries and Funeral Facilities Agency;

"burial ground" includes land set aside to be used for the interment of human remains, a mausoleum, cemetery, columbarium or any other structure intended for the interment of human remains or cremated human remains;

"client" means a person who makes arrangements in respect of the disposal of human remains with a practitioner;

"cold storage facility" means premises with refrigeration equipment for storage of human remains;

"columbarium" means a structure designed for the purpose of interring cremated human remains in a sealed compartment;

"crematorium" means premises fitted with appliances for the purpose of cremating human remains, a place or site used for cremating human remains and anything used in connection with cremation;

"district" includes the area of authority of a District Assembly and of a municipal and metropolitan authority;

"District Assembly" includes Municipal and Metropolitan Assembly;

"embalment" means the preservation and disinfection of all or part of a human body by any means other than refrigeration; "facility" includes a cold store for human remains, mortuary, funeral home, crematoria, cemetery, columbarium, mausoleum and a hearse;

"funeral home" means premises with or without cold storage facility for human remains where preparations for burial are made;

"hearse" includes a device registered for the purpose of carrying or transporting human remains with or without a coffin;

"human remains" includes the body of a deceased person or still born child and any part or remains of a body or still born child and any part of a body removed in the course of surgical operation;

"inspector" means a person authorised by the Board under this Part;

"mausoleum" means premises other than a columbarium used as a place of interment of human remains in sealed crypt or compartment;

"Minister" means the Minister responsible for Health; "mortuary" means premises with equipment for autopsy and cold storage where human remains are kept until disposal;

"practitioner" includes a person with relevant training and qualification or experience acceptable by the Board and registered to operate under this Part and an undertaker, embalmer, cremator and sexton;

"premises" includes a house, building, structure, tent, caravan, ship, boat, or an aircraft;

"public hearing" means a meeting of stakeholders in a community connected with the matter;

"Registrar" means the Registrar of the Mortuaries and Funeral Facilities Agency;

"Regulations" means the Regulations made under this Part; and "Zonal Committee" means the Zonal Mortuary and Funeral Facilities Committee which is made up of a team from a district or a group of districts within a region ..

Transitional provisions

58. (1) The rights, assets and liabilities accrued in respect of properties vested in the Board established under the Mortuaries and Funeral Facilities Act, 1998 (Act 563) immediately before the commencement of this Act and the persons employed by the Board shall be transferred to the Agency established under this Act and accordingly proceedings taken by or against the former Board may be continued by or against the Agency.

(2) A contract subsisting between the former Board established under the Mortuaries and Funeral Facilities Act, 1998 (Act 563) and a person and in effect immediately before the commencement of this Act shall subsist between the Agency under this Act and that other person.

Repeal and savings

59. (1) The Mortuaries and Funeral Facilities Act, 1998 (Act 563) is hereby repealed.

(2) The register of practitioners in use immediately before the commencement of this Act and each document prepared or issued under Act 563 shall continue in force as if kept, prepared or issued under the corresponding provisions of this Act.

PART THREE-AMBULANCE COUNCIL

Establishment of the Council Establishment of
the Ambulance Council

60. (1) There is established by this Act a body corporate with perpetual succession to be known as the Ambulance Council.

(2) Where there is hindrance to the acquisition of property, the property may be acquired for the Council under the State Property and Contracts Act 1960 (C.A 6) or the State Lands Act, 1962 (Act 125) and the costs shall be borne by the Council.

Object of the Council

61. The object of the Council is to regulate the operation of ambulance services in the country in accordance with policy standards.

Functions of the Council

62. The functions of the Council are to

- (a) set and enforce standards for training of practitioners, training institutions and for service delivery;
- (b) monitor the operations of ambulance services to ensure that standards for pre-hospital care delivery are maintained;
- (c) supervise, monitor and evaluate practitioners, training institutions and service providers;
- (d) register and licence practitioners;
- (e) maintain a register for practitioners
- (f) ensure equitable distribution of ambulance service in the country;
- (g) advise the Minister on policy matters;
- (g) regulate the fees to be charged by service providers;
- (h) collaborate with relevant institutions for purposes of this Part; and
- (i) perform any other functions that are ancillary to its objects.

Governing body of the Council

63. (1) The governing body of the Council is a Board consisting of (a) a chairperson, (b) one representative from the Ministry of Health not below the rank of Director, (c) one representative from the Ghana National Fire Service not below the rank of Deputy Chief Fire Officer, (d) one representative from the Attorney-General's Department not below the rank of Principal State Attorney,

- (e) one representative from the National Disaster Management Organisation,
- (f) one representative of private ambulance service providers nominated from among their number,
- (g) two persons who are not health professionals, one of whom is a woman nominated by the Minister, and
- (h) the Registrar.

(2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

(3) The Board shall ensure the proper and effective performance of the functions of the Council.

Registration of practitioners

Registration of practitioners

64. (1) A person shall not practise pre-hospital care delivery unless that person is registered in accordance with this Part.

(2) A person seeking registration shall apply to the Registrar in the manner determined by the Board.

(3) The registration is valid for a period of three years and is subject to renewal.

Qualification for registration

65. (1) A person does not qualify to practise pre-hospital care delivery unless that person is registered in accordance with this Part.

(2) A person registered shall be issued with a certificate and shall be known as a practitioner.

(3) Registration under this Part shall be in addition to registration required under any other law for the time being in force in respect of the practice.

Temporary registration of practitioners

66. The Board may temporarily register an applicant who does not

intend to practise permanently in the country if the applicant has (a) the requisite training from a recognised institution, (b) a good working knowledge of the English language, (c) proof of registration to practice, and

(d) passed a qualifying evaluation by the Council.

Renewal of certificate of registration

67. (1) A certificate of registration is valid for three years and shall be renewed subject to this Part.

(2) The certificate of registration shall be renewed by the practitioner every three years before the 31st of December of the following calendar year.

Annual list of practitioners

68. The Registrar shall publish the list of registered practitioners annually in the *Gazette*.

Establishment of register

69. (1) The Board shall establish and keep a register in a form it may determine and shall record in it

(a) the unique identification number of a practitioner, (b) certificates issued under this Act,

(c) suspension and cancellation of certificates, and

(d) other information relating to the certificates that the Board considers appropriate.

(2) A person may require the Board to supply to that person an extract from any part of the register on payment of a fee.

Removal and restoration of names from register

70. (1) The Registrar shall on the recommendations of the Board remove from the register the name of a person

(a) who is dead,

(b) who has been found guilty of professional misconduct by the Disciplinary Committee of the Council, and

(c) who has not paid the prescribed fee.

(2) The name of a person may be restored to the register by the Registrar as directed by the Board.

Suspension of registration

71. The Board may suspend the registration of a practitioner where (a) an offence or allegation of professional misconduct in relation to the practitioner is being investigated,

- (b) a false declaration has been made in an application for registration issued to the practitioner, or
- (c) the practitioner has contravened a provision of this Part.

Cancellation of registration

72. The Board shall cancel the registration of a practitioner on the recommendation of the Disciplinary Committee of the Council where the practitioner
- (a) is convicted of an offence under this Part or the Regulations,
 - (b) has lost the qualification on the basis of which the registration was made, or
 - (c) is convicted to a term of imprisonment for a criminal offence.

Representation to the Board and appeal

73. (1) Registration shall not be suspended unless the Board has given the practitioner at least thirty days notice of its intention to suspend the registration and has provided the practitioner an opportunity to make a representation to the Board.
- (2) Registration shall not be cancelled unless the Board has given the practitioner at least thirty days notice of its intention to cancel the registration.
- (3) A person dissatisfied with a decision of the Board may appeal to the High Court.

Licensing

Requirement of licence for operation of ambulance services

74. (1) Subject to this Part, a person shall not establish, operate or otherwise provide an ambulance service unless that person has been granted a licence for that purpose by the Board.
- (2) The ambulance services required to be provided under this Part are specified in the Second Schedule.

Qualification for licence

75. A licence under this Part may only be granted
- to (a) a citizen,
 - (b) a body corporate registered under the Companies Act, 1963 (Act 179) or under any other law,
 - (c) a partnership registered under the Incorporated Private Partnerships Act, 1962 (Act 152), or
 - (d) a foreign individual or foreign company in a registered joint venture relationship with a citizen of Ghana or a Ghanaian company.

Application for a licence

76. A person may apply to the Board for a licence in the manner determined by the Board with the prescribed fee.

Issue of a licence

77. (1) Where an applicant meets the conditions required by this Part for a licence to establish, operate or otherwise provide an ambulance service, the Board shall approve the application and issue the applicant with the licence to provide the approved ambulance service.

(2) Despite subsection (1), the Board may for reasons in the public interest, public safety or public security decide not to issue an applicant with a licence and shall inform the applicant of its decision within thirty days.

(3) A licence issued is valid for a period of three years and may be renewed.

(4) A licence issued under this Part shall bear a unique identification number to be used by the facility in transactions.

Renewal of a licence

78. (1) An application for the renewal of a licence shall be made to the Board not later than two months prior to its expiry and in the manner determined by the Board.

(2) An applicant who seeks to renew a licence shall pay the prescribed fee prior to the issue of the licence.

(3) A licensee who fails to renew a licence or whose application for renewal is rejected by the Board shall cease to provide the ambulance service within thirty days after the expiration of the licence

Use of ambulance and siren

84. (1) A person shall not operate or use an ambulance licensed for the provision of ambulance services for a purpose other than that related to a service specified in the Second Schedule.

(2) A person who drives an ambulance shall ensure that the emergency lights and siren of the ambulance are on only when it is in operation.

(3) An ambulance shall not be used as a hearse.

(4) A person who contravenes subsection (1), (2) or (3) commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment of not more than two years or to both.

Requirement of inscription and siren device

85. (1) A licensee who intends to use a vehicle designed for the purpose of operating or providing an ambulance service shall prior to the use of that vehicle ensure

(a) that the inscription "ambulance" is conspicuously displayed on the trunk of the vehicle,
and

(b) the vehicle has the siren signal device installed on it.

(2) A person who contravenes subsection (1) is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment of not more than two years or to both.

Training of pre-hospital care persons

86. The Board shall approve the teaching of pre-hospital care by an accredited practitioner or institution.

Entry of premises

87. A person authorised by the Board may enter premises at a reasonable time to inspect the registration of a practitioner, if that person has reasonable cause to believe that an offence under this Part has been or is about to be or is being committed on the premises.

Inspectors

88. (1) For the purposes of this Part, inspectors may be appointed for the Board.

(2) An inspector appointed under this Part shall carry out the functions that the Board may determine.

(3) An inspector authorised by the Board may at reasonable times enter premises or an ambulance used or suspected to be used by a practitioner to investigate activities there.

Obstruction of inspector

89. (1) A person shall not obstruct an authorised inspector in the conduct of duties under this Part.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units and not more than five hundred penalty units or to a term of imprisonment of not more than two years or to both.

Right of way to ambulance

90. (1) Every road user shall give clear and uninterrupted passage to an ambulance being driven which has its siren and emergency lights activated.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units and not more than five hundred penalty units or to a term of imprisonment of not more than two years or to both.

Regulations

91. (1) The Minister may, on the advice of the Board, by legislative

instrument make Regulations to

(a) prescribe the conditions for registration of practitioners; (b) prescribe practice standards for practitioners;

(c) provide for discipline of practitioners;

(d) prescribe the fees to be paid under this Part;

(e) provide for guidelines for surveillance of accidents and emergencies;

(f) prescribe the designated standards of equipment used in ambulances;

(g) provide for the needs of persons physically challenged in ambulance services;

(h) prescribe accreditation standards for training institutions for practitioners;

(i) amend the Second Schedule; and

(j) provide for any other matter necessary for the effective implementation of the provisions of this Part.

(2) A person who commits an offence under the Regulations is liable on summary conviction to a fine of not more than five thousand penalty units.

"relevant institution" includes the National Disaster Management Organisation, the St. John Council of Ghana, the Ghana Red Cross Society; and an institution which for the purposes of this Part needs to collaborate with the Council.

"road" includes other passage; and

"vehicle" means a mechanically-propelled device.

Transitional provision

93. A person who owns or operates an ambulance service immediately before the commencement of this Act shall subject to this Part, apply within three months from the date of the commencement of this Act for the grant of a licence.

PART FOUR-ADMINISTRATIVE AND FINANCIAL PROVISIONS

Tenure of office of members of the Board

94. (1) A member of the Board shall hold office for a period not exceeding three years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

(2) Subsection (1) does not apply to the Registrar of the Agency or Council.

(3) A member of the Board may at any time resign from office in writing addressed to the President through the Minister.

(4) A member of the Board who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.

(5) The President may by letter addressed to a member revoke the appointment of that member.

(6) Where a member of the Board, is for a sufficient reason unable to act as a member, the Minister shall determine whether the inability would result in a declaration of a vacancy.

(7) Where there is a vacancy

(a) under subsection (3) or (4) or section 96;

(b) as a result of a declaration under subsection (6); or (c) by reason of the death of a member

the Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

Meetings of the Board

95. (1) The Board shall meet at least once every three months for the despatch of business at the times and in the places determined by the chairperson.

(2) The chairperson shall at the request in writing of not less than one-third of the members of the Board convene an extraordinary meeting of the Board at the place and time determined by the chairperson.

(3) The quorum of a meeting of the Board is five members of the Board or a greater number determined by the Board in respect of an important matter.

(4) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board elected by the members present from among their number shall preside.

(5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Board may co-opt a person to attend a Board meeting but that person shall not vote on a matter for decision at the meeting.

(7) The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

Disclosure of interest

96. (1) A member of the Board who has an interest in a matter for consideration (a) shall disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) shall not participate in the deliberations of the Board in respect of that matter.

(2) A member ceases to be a member of the Board, if that member has an interest in a matter before the Board and

(a) fails to disclose that interest, or

(b) participates in deliberations of the matter.

Establishment of committees

97. The Board may establish committees consisting of members of the Board or non members or both to perform its functions.

Allowances

98. Members of the Board and members of a committee of the Board shall be paid the allowances approved by the Minister in consultation with the Minister responsible for Finance.

Ministerial directives

99. The Minister may give policy directives in writing to the Board.

Registrar

100. (1) The President shall appoint a Registrar for the Agency or the Council in accordance with article 195 of the Constitution.

(2) The Registrar shall be a practitioner with considerable administrative and managerial experience or training.

(3) The Registrar shall hold office on the terms and conditions specified in the letter of appointment.

Functions of the Registrar

101. (1) The Registrar is responsible for the day to day administration of the affairs of the Agency or Council and is answerable to the Board in the performance of functions under this Act.

(2) The Registrar shall perform any other functions determined by the Board.

(3) The Registrar may delegate a function to an officer of the Agency or Council but is not relieved from ultimate responsibility for the performance of a delegated function.

(4) The Registrar shall be the secretary to the Board.

Appointment of other staff

102. (1) The President shall, in accordance with article 195 of the Constitution, appoint other staff of the Agency or Council.

(2) The Agency or Council shall have any other officers and staff that are necessary for the proper and effective performance of its functions.

(3) Other public officers may be transferred or seconded to the Agency or Council or may otherwise give assistance to it.

(4) The Agency or Council may engage the services of advisers on the recommendation of the Board.

Funds of the Agency or Council

103. The funds of the Agency or Council include (a) moneys provided by Parliament,

(b) donations, grants and loans,

(c) service fees, and

(d) any other moneys that are approved by the Minister responsible for Finance.

Accounts and audit

104. (1) The Board shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.

(2) The Board shall submit the accounts of the Agency or Council to the Auditor-General for audit within three months after the end of the financial year.

(3) The Auditor-General shall, not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

(4) The financial year of the Agency or Council shall be the same as the financial year of the Government.

Annual reports

105. (1) The Board shall, within one month after the receipt of the audit report, submit an annual report to the Minister covering the operations of the Agency or Council for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall within one month after the receipt of the annual report submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Board shall also submit to the Minister any other reports which the Minister may require in writing.

Interpretation

106. In this Part unless the context otherwise requires,

"Agency" means the Health Facilities Regulatory Agency and the Mortuaries and Funeral Facilities Agency;

"Board" means the governing body of the Health Facilities Regulatory Agency, the governing body of the Mortuaries and Funeral Facilities Agency and the governing body of the Ambulance Council; and

"Council" means the Ambulance Council.

FIRST SCHEDULE

(Section 11 (2))

Facilities to be licenced

The following facilities shall be licenced under this Act: (a) medical and dental (clinics and hospital); (b) eye care clinics;

(c) convalescent and nursing homes; (d) geriatric homes;

(e) maternity homes;

(f) occupational therapy clinics; (g) physiotherapy clinics;

(h) dental technology laboratory;

(i) clinical and bio-medical laboratory (j) medical assistant clinics;

(k) diagnostic-imaging technology clinics; (l) pharmacies and chemical shops; (m) osteopathy clinics;

(n) prosthetics and orthotics clinics; and

(o) any other health care clinic or premises that may be determined by the Minister.

SECOND SCHEDULE

(Section 74 (2) and 80 (1))

(Ambulance services to be provided) Ambulance services required to be provided under this Act are:

(a) 24-hour standby service to respond to 193 and other emergency calls;

(b) pre-hospital care during emergency response; (c) transportation of patients to and from hospital;

(d) provision of services for public and private gatherings; (e) training of Emergency Medical Technicians;

(f) training of First Responders;

(g) promotion of training for health professionals in life support courses;

(h) promotion of first aid training to the general public; and (i) provision of reliable and timely information for effective ambulance operation countrywide.

Date of *Gazette* notification:

