I assent.

(L.S.)

AGATHA BARBARA
President

4th April, 1985

ACT No. V of 1985

AN ACT further to amend the Medical and Kindred Professions Ordinance, Cap. 51.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the Medical and Kindred Professions (Amendment) Act, 1985, and shall be read and construed as one with the Medical and Kindred Professions Ordinance, hereinafter referred to as "the principal law".

Amendment of section 4 of the principal law.

2. Section 4 of the principal law shall be amended as follows:

(a) in subsection (3) thereof after the words "in a Government hospital or clinic" there shall be inserted the words "or in any other branch of the health service provided by Government,";

(b) at the end of subsection (3) there shall be added the following proviso:

"Provided that no person may practise the medical profession in accordance with this subsection in a branch of the health service provided by Government other than a Government hospital or clinic, unless such person shall have already served as a house physician/surgeon in a Government hospital for a period of a year, which period shall include service both in the speciality of medicine and that of surgery."; and

(c) in subsection (4) thereof after the words "house physician/surgeon" there shall be inserted the words "in a Government hospital or clinic or in any other branch of the health service provided by Government,".

Amendment of section 5 of the principal law.

3. Section 5 of the principal law shall be amended as follows:

(a) in paragraph (b) of subsection (1) thereof after the words "as a house physician/surgeon in a Government hospital or clinic" there shall be inserted the words "or in any other branch of the health service provided by Government";

(b) in the proviso to subsection (1) thereof after the words "as a house physician/surgeon in a Government hospital or clinic" there shall be inserted the words "or in any other branch of the health service provided by Government"; and

(c) immediately after subsection (1) thereof there shall be inserted the following new subsection:

"(1A) Notwithstanding the provisions of subsections (1) and (2) of section 4 of this Ordinance, a person required to serve as a house physician/surgeon in a Government hospital or clinic or in any other branch of the health service provided by Government, in accordance with the provisions of the proviso to subsection (1) of this section, may practise the medical profession as a house physician/surgeon in such hospital, clinic or branch of the health service and in the performance of his duties assigned to him in that capacity such person shall for all purposes of law be treated as if he were licensed to practise the medical profession and the powers of the Medical Council as provided in subsection (4) of section 4 of this Ordinance shall apply also in regard to such person:

Provided that no person may practise the medical profession in accordance with this subsection in a branch of the health service provided by Government other than a Government hospital or clinic, unless such person shall have already served as a house physician/surgeon in a Government hospital for a period of a year, which period shall include service both in the speciality of medicine and that of surgery.".

Amendment of section 17 of the principal law.

4. Immediately after subsection (2) of section 17 of the principal law there shall be inserted the following new subsection:

"(3) Notwithstanding the provisions of paragraph (d) of subsection (1), and of subsection (2) of this section, a person who holds the qualifications mentioned in paragraphs (a), (b) and (c) of subsection (1) and who possesses the necessary technical qualifications obtained from a foreign country, shall qualify for the licence referred to in subsection (1) of this section if he produces a certificate from the Pharmacy Board showing that the Board is satisfied that he holds those qualifications and that the conditions for the granting of such qualifications in the country concerned are equivalent to the conditions for obtaining such qualifications in Malta.".

Amendment of section 19 of the principal law.

5. For subsection (6) of section 19 of the principal law there shall be substituted the following:

"(6) Notwithstanding the provisions of subsection (1) of this section, a dispensary may in the momentary absence of the managing apothecary be kept open when a pharmacy technician is in attendance, but no such absence shall exceed thirty minutes at a stretch and no absences shall in the aggregate exceed ninety minutes in any one day.".

Addition of section 35B to the principal law.

6. Immediately after section 35A of the principal law there shall be added the following:

"Psychotropic Drugs.

35B. (1) The Minister of Health may, after consulting the Council of Health, and so far as he may consider necessary or expedient for the protection of the public health, make regulations for controlling the manufacture, exportation, importation, possession, distribution and sale of psychotropic drugs as may be deemed by him to require such control in the public interest, and for preventing their improper use, and in particular but without prejudice to the generality of the foregoing powers for —

(a) regulating the issue by the persons mentioned in subsection (1) of section 27 of prescriptions containing any such drug or chemical product and the dispensing of any such prescription;

(b) requiring persons engaged in the manufacture, exportation, importation, sale or distribution of any such drug or chemical product to keep and produce for inspection such books and to furnish such information as may be prescribed;

(c) requiring and regulating the labelling and marking of any such psychotropic drug and regulating any advertisement thereof.

(2) For the purpose of this section, the term "psychotropic drug" means any drug or chemical listed in the Third Schedule to this Ordinance.

(3) The Minister of Health may, after consulting the Council of Health, by regulation amend, add to, revoke or substitute the list of psychotropic drugs contained in the Third Schedule to this Ordinance.".

Amendment of section 68 of the principal law.

7. Section 68 of the principal law shall be amended as follows:

(a) for the words "Any person whose name is entered" there shall be substituted the words "Any person, whether a citizen of Malta or not, whose name is entered"; and

(b) for the marginal note thereto there shall be substituted the following:

"Nurses registered or enrolled abroad.".

Addition of new section 73H to the principal law.

8. Immediately after section 73G of the principal law there shall be added the following new section:

"Persons registered in other countries.

73H. Any person, whether a citizen of Malta or not, whose name is entered in any register of physiotherapists, podologists (or chiropodists), medical laboratory technicians, occupational therapists, radiographers, speech therapists, or health inspectors, or who is a person belonging to any other recognised profession supplementary to medicine as the Minister of Health may in accordance with subsection (1) of section 73D of this Ordinance have declared, whose name is entered in the respective register of any foreign country, or any person who has the right to practise any of the aforesaid professions in any such country, shall be admissible to the corresponding register kept by the Board for the Professions Supplementary to Medicine, if the Board is

satisfied that the conditions for registration or for the granting of the right to practise such profession in such country are equivalent to the conditions required for registration in Malta.".

Addition of new section 75A to the principal law.

9. Immediately after section 75 of the principal law there shall be added the following new section:

"Advertisement of treatment, etc.

75A. (1) No person shall advertise or permit or suffer to be advertised in any manner whatsoever, any medical or health service or treatment, not being a service provided by Government, or any other service or treatment which is or is described as being of a medical, therapeutic or curative value or effect, or in any other way beneficial to health, without the approval of the Council of Health.

(2) For the purposes of subsection (1) of this section, "treatment" shall include any form of advice relating to the treatment or cure of maladies or ailments, or any advice relating to health.".

Amendment of section 76 of the principal law.

10. In section 76 of the principal law for the words "the last preceding section" there shall be substituted the words "section 75 of this Ordinance".

Amendment of section 88 of the principal law.

11. In subsection (2) of section 88 of the principal law, for the words "section 47, 48, 49, 50, 53, 56, 58A, 61, 70, 73C, 73G, 75, 76, 79 or 87 of this Ordinance" there shall be substituted the words "section 47, 48, 49, 50, 53, 56, 58A, 61, 70, 73C, 73G, 75, 75A, 76, 79 or 87 of this Ordinance".

Addition of new section 89A to the principal law.

12. Immediately after section 89 of the principal law there shall be added the following new section:

"Offences under section 35B of the principal law.

89A. (1) Any person —

(a) who acts in contravention of, or fails to comply with any provision of any regulation made under section 35B; or

(b) who acts in contravention of, or fails to comply with the conditions of any licence or permit or authority granted under the provisions of any regulation made under section 35B; or

(c) who for the purpose of obtaining, whether for himself or for any other person, the issue, grant or renewal of any such licence, permit or authority as aforesaid, makes any declaration, or statement which is false in any particular, or knowingly utters, produces or makes use of any such declaration or statement or any document containing the same; or

(d) who in Malta aids, abets, counsels, or procures the commission in any place outside Malta of any offence punishable under the provisions of any corresponding law in force in that place, or does any act preparatory to, or in furtherance of, any act which if committed in Malta would constitute an offence against any such regulations,

shall be guilty of an offence against this section.

(2) Every person charged with an offence against this section shall be tried in the Criminal Court or before the Court of Magistrates of Judicial Police as the Attorney General may direct and if he is found guilty shall, in respect of each offence, be liable —

(a) on conviction by the Criminal Court to imprisonment for a term of not less than twelve months but not exceeding ten years and to a fine (*multa*) of not less than two hundred Maltese liri but not exceeding ten thousand Maltese liri; or

(b) on conviction by the Court of Magistrates —

(i) in the case of a first conviction, other than a conviction for an offence relating to the importation, manufacture, sale or other dealing in psychotropic drugs contrary to the provisions of any regulation made under section 35B, to a fine (*multa*) of not less than one hundred Maltese liri but not exceeding one thousand Maltese liri or to imprisonment for a term of not less than three months but not exceeding twelve months, or to both such fines and imprisonment; and

(ii) in case of a conviction for an offence relating to the importation, manufacture, sale or other dealing in psychotropic drugs contrary to the provisions of any regulation made under section 35B, and in the case of a second or subsequent conviction to imprisonment for a term of not less than six months but not exceeding four years and to a fine (*multa*) of not less than two hundred Maltese liri but not exceeding two thousand Maltese liri,

and in every case of conviction for an offence against this section, all articles in respect of which the offence was committed shall be forfeited to the Government and any such forfeited article shall, if the Court so orders, be destroyed or otherwise disposed of as may be provided in the order:

Provided that where the Attorney General or the Court, as the case may be, is satisfied that the offender is not a person who imports, manufactures, sells or otherwise deals in any psychotropic drug, and the offence consists only in the possession of such drug for the exclusive use of the offender, or of utensils for that purpose, or consists in the taking of any such drug —

(i) any such person shall not be tried before the Criminal Court and shall not be liable to imprisonment, and

(ii) where any such person as aforesaid is, on the date on which the offence is discovered, registered as a person who is under treatment for addiction to drugs, in such manner and in accordance with such arrangements as may have been made by the Minister responsible for health, and is certified under those arrangements to be following the treatment prescribed to him, such person shall be exempt from any punishment in respect of any of the said offences committed while he was registered as aforesaid.

(3) No person shall, on conviction for any offence of contravening or failing to comply with any regulation under section 35B of this Ordinance relating to the keeping of books or the issuing or dispensing of prescriptions containing psychotropic drugs to which that section applies, be sentenced to imprisonment without the option of a fine or to pay a fine exceeding fifty Maltese liri, if the Court dealing with the case is satisfied that the offence was committed through inadvertence and was not preparatory to or committed in the course of or in connection with the commission or intended commission of any other offence against this section.

(4) If any person attempts to commit an offence against this section, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable on conviction to the same punishment and forfeiture as if he had committed an offence under this section.

(5) Where the offence in respect of which a person is found guilty under this section consists in the importation, manufacture, selling or otherwise dealing in a psychotropic drug, and such person is either licensed under this Ordinance or under the Dangerous Drugs Ordinance, or is in possession of a warrant issued under this Ordinance to practise a profession, or a calling or a trade, or the offence is committed in a place licensed under this Ordinance or the Ordinance aforesaid, the Court shall at the request of the prosecution and in addition to any other punishment, order the revocation of such licence or warrant and upon such order being made any such licence or warrant shall cease to have effect for all purposes of law and in particular for the purposes of this Ordinance and of the Ordinance aforesaid.

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(6) Where it results to the Court that the offender not being a person who imports, manufactures, sells or otherwise deals in any psychotropic drug, is in need of medical care and assistance for his rehabilitation, the Court may, instead of applying any of the punishments provided for in the foregoing subsections order that the offender be remitted to an institution approved for the purpose by the Minister responsible for health in order that he may be given the necessary treatment.

The Court shall cause such order to be forthwith conveyed to the Minister responsible for health who will give such directives as he may deem fit for the care and treatment of any such person.".

Amendment of section 98 of the principal law.

13. In section 98 of the principal law, for the words "kept under the provisions of this Ordinance." there shall be substituted the words "kept under the provisions of this Ordinance by the Medical Council, the Pharmacy Board, the Nursing and Midwifery Board or by the Board for the Professions Supplementary to Medicine.".

Substitution of the Schedule to the principal law.

14. For the Schedule to the principal law there shall be substituted the following:

"SECOND SCHEDULE

(Section 6)

CERTIFICATE OF DEATH AND CAUSE THEREOF

1. Name and surname .....

2. Age and sex ..... Identity Card No. .....
(if dead person had an Identity Card)

3. Place of birth .....

4. Residence .....
.....

5. Profession, trade or other status .....

6. Name and surname of parents and whether living or dead
.....

7. Whether bachelor or spinster, married, widower or widow, and in the latter two cases the name and surname of the husband or wife .....

8. Hour, day, month and year of death .....

9. Place where death occurred .....

*10. Cause of death:—

		Approximate interval between onset and death
I		
Disease or condition directly leading to death	(a)	
	due to (or as a consequence of)	
Antecedent causes: morbid conditions, if any, giving rise to the above cause, stating the underlying condition last	(b)	
	due to (or as a consequence of)	
	(c)	
II		
Other significant conditions contributing to the death but not related to the disease or condition causing it	.....	
	.....	

11. Place of Interment .....

12. Signature of the Medical Practitioner .....
Date .....
Name in Block Letters .....
Address .....
.....

TO THE POLICE OFFICER IN CHARGE OF THE ACTS OF DEATH IN .....

* NOTES:

The certifier should enter under —

I. (a) The disease or injury which initiated the train of morbid events leading to death, i.e. the disease, injury or complication which was the direct cause of death. This does not mean the mode of dying e.g. heart failure, asthenia, etc.

(b) The condition, if any, considered to have been antecedent to the direct cause, both in respect of time and of etiological or pathological relationship. A condition can be entered as antecedent even though a long interval of time has elapsed since its onset or since the occurrence of symptoms of it.

(c) Any other condition which is considered to be antecedent to (b) in the same sense as described above.

If it is thought that there has not been any antecedent condition as defined above, lines I (b) and (c) should be left blank.

On no account must the starting point of the sequence be entered in Part II because of lack of space for it in Part I.

II. Any other conditions which, though not in the casual sequence in Part I, appear to have contributed something to the fatal outcome.".

Addition of Third Schedule to the principal law.

15. Immediately after the Second Schedule to the principal law there shall be added the following new Schedule:

"THIRD SCHEDULE

(Section 35B)

LIST OF PSYCHOTROPIC DRUGS

International or other nonproprietary name or other trivial name	Chemical name
DET	N, N-diethyltryptamine
DMHP	3-(1, 2-dimethylheptyl)-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H- dibenzo [b, d] pyran
DMT	N, N-dimethyltryptamine
(+) LYSERGIDE, LSD, LSD-25	(+) N, N-diethyllysergamide (d-lysergic acid diethylamide)
MESCALINE, MESCAL BUTTON, PEYOTE, PEYOTL	3, 4, 5-trimethoxyphenethylamine
PARAHEXYL	3-hexyl-l-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b, d] pyran
PCE	N-ethyl-l-phenylcyclohexylamine
PHP, PCPY	1-(1-phenylcyclohexyl) pyrrolidine
PSILOCINE, PSILOTSIN	3-(2-dimethylaminoethyl)-4-hydroxyindole
PSILOCYBINE	3-(2-dimethylaminoethyl) indol-4-yl dihydrogen phosphate
STP, DOM	2-amino-1-(2, 5-dimethoxy-4-methyl) phenylpropane

International or other nonproprietary name or other trivial name	Chemical name
TETRAHYDROCANNABINOLS ALL ISOMERS	1-hydroxy-3-pentyl-6a, 7, 10, 10a-tetrahydro-6, 6, 9-trimethyl-6-H-dibenzo [b, d] pyran
TCP	1-[1-(2-thienyl) cyclohexyl] piperidine
and any derivatives, salts, or esters of the above.	
AMFEPRAMONE, DIETHYLPROPION	2-(diethylamino) propiophenone
AMOBARBITAL	5-ethyl-5-(3-methylbutyl) barbituric acid
AMPHETAMINE	(±)-2-amino-l-phenylpropane
BARBITAL	5, 5-diethylbarbituric acid
BENZPHETAMINE	(+)-N-Benzyl-N, ∝-dimethylphenylamine
CHLORAL HYDRATE	2, 2, 2-trichloroethane-1, 1-diol
CHLORDIAZEPOXIDE	7-chloro-2-methylamino-5-phenyl-3H-1, 4-benzo-diazepine 4-oxide
CHLORPHENTERMINE	p-chloro-∝-dimethylphenethlylamine
CYCLOBARBITAL	5-(1-cyclohexen-1-yl)-5-ethylbarbituric acid
DEXAMPHETAMINE	(+)-2-amino-1-phenylpropane
DIAZEPAM and other compounds containing the chemical structure of DIHYDRO-1:4 BENZODIAZEPINE or DIHYDRO-1:5 BENZODIAZEPINE substituted to any degree	7-chloro-2, 3-dihydro-1-methyl-5-phenyl-1H-1, 4-benzodiazepine-2-one
ETHCHLORVYNOL	ethyl-2-chlorovinylethinyl-carbinol
ETHINAMATE	1-ethynylcyclohexanol carbamate
FENCAMFAMIN	2-Ethylamino-3-phenylnorbornane
FENFLURAMINE	N-ethyl-∝-methyl-m(trifluoromethyl) phenethylamine
GLUTETHIMIDE	2-ethyl-2-phenylglutarimide
MAZINDOL	5-p-chlorophenyl-2, 3-dihydro-5H-imidazo [2, 1-a] isoindol-5-o1
MECLOQUALONE	3-(O-chlorophenyl)-2-methyl-4 (3H)-quinazolinone
MEPHENTERMINE	N-∝-trimethylphenethylamine
MEPROBAMATE	2-methyl-2-propyl-1, 3-propanediol dicarbamate
METHAMPHETAMINE	(+)-2-methylamino-1-phenylpropane
METHAQUALONE	2-methyl-3-o-tolyl-4(3H)-quinazolinone
METHYLPHENIDATE	2-phenyl-2-(2-piperidyl) acetic acid, methyl ester
METHYLPHENOBARBITAL	5-ethyl-1-methyl-5-phenyl-barbituric acid
METHYPRYLON	3, 3-diethyl-5-methyl-2, 4-piperidinedione
PARALDEHYDE	acetaldehyde trimer
PENTAZOCINE	1,2,3,4,5,6-Hexahydro-6, 11-dimethyl — 3-(3 methylbutyl-2-enyl)-2, 6-methano-3-benzazocin-8ol
PENTOBARBITAL	5-ethyl-5-(1-methylbutyl) barbituric acid
PHENTERMINE	dimethylphenethylamine
PIPRADROL	1, 1-diphenyl-1-(2-piperidyl) methanol
PHENCYCLIDINE	1-(1-phenylcyclohexyl) piperidine
PHENDIMETRAZINE	(+)-3, 4, -Dimethyl-2-phenylmorpholine
PHENMETRAZINE	3-methyl-2-phenylmorpholine
PHENOBARBITAL	5-ethyl-5-phenylbarbituric acid
SECOBARBITAL	5-allyl-5-(1-methylbutyl) barbituric acid
SPA	(-)-1-dimethylamine-1, 2, diphenylethane
and any salts or esters of the above.	

Transitory provision. L.N. 31 of 1976

16. The Drugs (Control) Regulations, 1976 made in virtue of section 35A of the principal law, shall be in so far as they relate to psychotropic drugs deemed to have been made by the Minister in virtue of the powers conferred upon him by section 35B of the principal law (added by section 6 of this Act), and the provisions of section 89A of the principal law (added by section 12 of this Act) shall apply to any contravention of the said regulations in relation to psychotropic drugs, after the coming into force of this Act.

Passed by the House of Representatives at Sitting No. 241 of the 27th March, 1985.

DANIEL MICALLEF
Speaker

C. MIFSUD
Clerk to the House of Representatives

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