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MEDICAL IMAGING TECHNOLOGISTS DECREE 2009
 (DECREE NO. 40 OF 2009)

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GOVERNMENT OF FIJI

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 MEDICAL IMAGING TECHNOLOGISTS DECREE 2009
 (DECREE NO. 40 OF 2009)

IN exercise of the powers vested in me as Vice-President of the Republic of Fiji by virtue of the Office of the Vice-President and Succession Decree 2009 I hereby make the following Decree

PART 1 — PRELIMINARY

Short title and commencement

- 1.—(1) This Decree may be cited as the Medical Imaging Technologists Decree 2009.
- (2) This Decree comes into force on a date to be appointed by the Minister by notice in the *Gazette*.

Object of the Decree

2. The Object of this Decree is to provide for the registration of Medical Imaging Technologist and establish the Fiji Society of Medical Imaging Technologists.

Interpretation

3. In this Decree, unless the context otherwise requires—
- “annual practising certificate” means a certificate issued to a registered person under section 15;
- “Board” means the Radiation Health Board established by section 104 of the Radiation Health Decree 2009;
- “certificate of registration” means a certificate registration or permit granted under Part 3;
- “Council” means the Council of the Fiji Society of Medical Imaging Technologists established under section 26;
- “disciplinary committee” means a disciplinary committee appointed under section 18;
- “medical imaging technology” means the science, technology and practice of medical imaging techniques using either ionising or non-ionising radiation;
- “practising certificate” means an annual practising certificate issued under this Decree;
- “prescribed” means prescribed in regulations;
- “profession” means the practice of medical imaging technologist;
- “provisional registration” means provisional registration as a medical imaging technologist under section 12;
- “Register” means the Medical Imaging Technologists Register provided for under section 14;
- “registered person” means any person registered as a medical radiation technologist under this Decree, and includes a person registered under section 12 or 13;
- “Society” means the Fiji Society of Medical Imaging Technologists established by section 23;
- “temporary registration” means temporary registration as a medical imaging technologist under section 13.

PART 2 — FUNCTIONS AND POWERS OF THE BOARD

Radiation Health Board

4.—(1) For the purposes of this Decree, the Radiation Health Board established under the Radiation Health Decree 2009 shall perform the functions and duties and may exercise the powers conferred upon it by this Decree in addition to its functions, duties and powers under the Radiation Health Decree 2009.

(2) Division 2 of Part 8 of the Radiation Health Decree 2009 (conduct of the business of the Board and its committees) applies to this Decree, with such modifications as may be necessary, when the Board performs its functions and duties and exercises its powers under this Decree.

Functions of Board

5. For the purposes of this Decree the Board has the following functions—
- (a) to process and determine applications for registration;
 - (b) to monitor compliance by registered persons with their conditions of registration;
 - (c) to maintain the Register and other records relating to registered persons;
 - (d) to assist the Council to develop and adopt standards of practice for registered persons;
 - (e) to assist the Council to develop and adopt programmes for the continuing education of registered persons and other training programmes for persons eligible for registration;
 - (f) to discuss and cooperate with other persons or bodies engaged in the development of national policies about the regulation of registered persons;
 - (g) to discuss and cooperate with the following entities about the education of persons who are training for or engaged in the profession—
 - (i) educational institutions;
 - (ii) the Council;
 - (iii) entities responsible for accrediting courses, or accrediting institutions to educate persons, for the profession;
 - (h) to inform registered persons and the public about the operation of this Decree and its application to the profession;
 - (i) to keep the operation of this Decree under review and advise the Minister about its operation and application to the profession;
 - (j) to monitor compliance with this Decree;
 - (k) to undertake research, relevant to this Decree, into the regulation of the profession;
 - (l) to assist the Council to collect and disseminate information about the profession;
 - (m) to perform any other functions given to it by this Decree or any other written law.

Powers of Board

6. For the purposes of this Decree the Board has the following powers—
- (a) to register or refuse to register an applicant for registration;
 - (b) to cancel or suspend a registration;
 - (c) to impose or remove conditions on a registration;
 - (d) to take and institute disciplinary actions against registered persons; and
 - (e) any other powers conferred on it by this Decree.

Exemption from liability for Board members, etc.

7. Members of the Board, of any committee of the Board (including any disciplinary committee) and of the Disciplinary Appeals Committee, are not personally liable for any act done in good faith and without negligence relating to the performance of any function or duty, or the exercise of any power, under this Decree.

PART 3 — REGISTRATION OF MEDICAL IMAGING TECHNOLOGISTS

Registration requirements

- 8.—(1) A medical imaging technologist may be registered under this Decree in one of the following categories—
- (a) Full registration;
 - (b) Provisional registration; or
 - (c) Temporary registration.

- (2) Only an individual may apply for registration.
- (3) An applicant for registration is eligible for registration if the applicant—
- (a) has a certificate certifying that the applicant has completed and passed a course in medical imaging science from the Fiji National University or from any other recognised institution in Australia, New Zealand or United Kingdom or any other prescribed country;
 - (b) has passed any other examination which may be prescribed and conducted by the Board;
 - (c) has satisfied the Board of his or her ability to safely and diligently use medical imaging equipment in diagnostic medical imaging and radiotherapy;
 - (d) has successfully completed to the satisfaction of the Board any additional course of study or training recommended and approved by the Board; and
 - (e) is otherwise a fit and proper person to be registered.

(4) In deciding whether an applicant is a fit and proper person to be registered, the Board may have regard to the following—

- (a) the applicant's mental and physical health;
- (b) the applicant's criminal records, if any;
- (c) for an applicant who holds, or has held, a licence, certificate or approval under the Radiation Health Decree 2009—
 - (i) if the licence, certificate or approval was affected by the imposition of a condition, the nature of the condition and the reason for its imposition; or
 - (ii) if the licence, certificate or approval was affected by its suspension or cancellation, the reason for the suspension or cancellation;
- (d) any other issue relevant to the ability of the applicant to practise the profession competently and safely.

Application for registration

9.—(1) An application for registration may either be for—

- (a) Full registration;
- (b) Provisional registration; or
- (c) Temporary registration.

(2) An application for registration shall—

- (a) be made to the Board;
- (b) be in the appropriate prescribed form and accompanied by the appropriate prescribed fee;
- (c) be accompanied by satisfactory evidence of relevant qualifications and any other prescribed documents.

(3) Where the prescribed form so requires, information in the application must be verified by a statutory declaration.

Processing and consideration of application

10.—(1) On receipt of a application for registration, the Board may give directions to the Secretary of the Board as to any further steps to be taken for the purpose of processing the application.

(2) Before making a decision on an application the Board may receive and consider written representations from the applicant or any person objecting to the application.

(3) After considering any representations received pursuant to subsection (2), the Board may, at its sole discretion, order an oral hearing be conducted at which the applicant and any person objecting to the application shall have the right to attend and be heard.

(4) For the purpose of a hearing pursuant to subsection (3) the Board has the power to administer an oath or affirmation.

(5) After considering an application, including any written or oral representations made pursuant to subsections (2) and (3), the Board must either grant or refuse to grant the application.

Registration certificates

11.—(1) Where the Board decides to grant an application for registration it shall issue a certificate of registration to the applicant.

(2) A registration certificate must specify the category of registration to which it applies.

Provisional registration

12.—(1) Where a person has applied to the Board for full registration, the Board may, subject to any conditions it may impose, issue a provisional registration to the applicant pending the determination of the application for full registration .

(2) A provisional registration issued under subsection (1) shall be valid for 3 months in the first instance.

(3) The Board may—

- (a) suspend or cancel a provisional permit; or
- (b) vary or extend it for a further period of up to 6 months.

(4) Where the application for full registration is granted or is refused by the Board during the currency of a provisional registration, the provisional registration automatically ceases to have effect and the certificate of provisional registration must be returned forthwith to the Secretary of the Board.

Temporary registration

13.—(1) Where a person eligible to be registered as a medical imaging technologist intends to reside in Fiji for a period not exceeding 24 months, the Board may, upon application and payment of the prescribed fee, issue a temporary registration for the duration of the temporary residence in Fiji.

(2) The temporary registration shall cease to have effect on the date the holder leaves Fiji permanently.

(3) Where during the currency of a temporary registration the holder has reason to believe that he or she may stay for in Fiji for more than 24 months, the holder must apply to the Board for full registration.

(4) If an application made in the circumstances referred to in subsection (3) is granted by the Board, the temporary registration shall immediately cease to be valid and the certificate of temporary registration must be returned to the Board forthwith.

Registers

14.—(1) This section establishes the Medical Imaging Technologists Register.

(2) The Register shall be divided into the following parts—

- (a) Part I consisting of the names of persons who are provisionally or temporarily registered;
- (b) Part II consisting of the names of persons who are fully registered;
- (c) Part III consisting of the names of persons, being persons who are fully registered, whom the Board is satisfied, having regard to their experience and postgraduate qualifications, are eligible to be regarded as, or have been approved as, consultants or specialists.

(3) For the purposes of keeping the Registers up-to-date, a registered person shall, within 30 days of the occurrence of any change of circumstances of a kind referred to in paragraph (a) or (b) below, or within such other period as may be prescribed, notify the Board—

- (a) of any change in address or any other relevant information as may be prescribed in respect of the registered person; or
- (b) of any additional training or higher qualification.

(4) Any person has the right to inspect the Register and obtain a copy of any entry in the Register.

(5) No charge shall be made for inspecting the Register but such fee as may be prescribed shall be charged for providing a copy of an entry in the Register.

PART 4 – ANNUAL PRACTISING CERTIFICATE

Requirement to hold and issue of practising certificate

15.—(1) A registered person shall not practise the profession unless the registered person holds a practising certificate issued by the Council.

(2) A registered person may apply for a practising certificate by submitting an application to the Council which must be accompanied by the person's registration certificate and the prescribed fee.

(3) Upon receipt of an application made in accordance with subsection (2) the Council shall issue the applicant with a practising certificate.

(4) The validity of a practising certificate issued under subsection (3) or renewed under section 14 expires on 31 December of the year in which it was issued.

Renewal, suspension and cancellation of practising certificate

16.—(1) Any application to renew a practising certificate must be lodged with the Council on or after 31 October in each year.

(2) Any application under subsection (1) must be accompanied by—

- (a) a photo static copy of the applicant's registration certificate;
- (b) documentary evidence that the applicant has complied with any requirement regarding continuing education and training under subsection (3);
- (c) the prescribed fee; and
- (d) where the applicant is a member of the Society, the annual subscription to the Society.

(3) Renewal of a practising certificate shall be conditional upon the applicant satisfying the Council that the applicant has participated in such courses of continuing education and training as the Council may specify.

(4) A course of continuing education or training specified for the purposes of subsection (3) must be approved by the Board.

(5) The Council—

- (a) must suspend a practising certificate in accordance with the terms of an order of the Board made under section 19(5) in respect of a complaint of unprofessional conduct;
- (b) may suspend a practising certificate—
 - (i) upon receiving notice in writing from the Board pursuant to section 17(4) that the Board has referred a complaint of unprofessional conduct against the holder to a disciplinary committee and having regard to any recommendation made by the Board in that regard; or
 - (ii) where the holder has been convicted of a serious criminal offence.

PART 5 — DISCIPLINARY MATTERS

Complaints

17.—(1) Any person may file a complaint with the Board on any matter relating to any alleged unprofessional conduct or practice of a registered person.

(2) Upon receiving and considering a complaint, the Board may—

- (a) dismiss the complaint if it is satisfied that that the complaint is trivial, frivolous or vexatious; or
- (b) refer the complaint to a disciplinary committee.

(3) A decision under subsection (2) to dismiss a complaint shall be communicated to the complainant.

(4) Where the Board refers a complaint to a disciplinary committee it shall give notice in writing to the Council of that fact and of the nature of the complaint to which it relates and may recommend that the practising certificate of the registered person against whom the complaint is made be suspended pending the final outcome of the disciplinary proceedings.

Disciplinary committees

18.—(1) The Board may appoint disciplinary committees from a panel of members consisting of members of the Society and lay persons submitted to the Board by the Council of the Society.

(2) A disciplinary committee shall consist of 3 members, one of whom shall be a lay person.

(3) For the purposes of this section a “lay person” is a person who is not and has never been qualified to practice as a medical imaging technologist.

Powers of disciplinary committees

19.—(1) A disciplinary committee shall hear and make recommendations to the Board regarding any complaint of unprofessional conduct referred to it by the Board.

(2) For the purpose of subsection (1), a disciplinary committee may receive oral or written evidence, summon persons, administer oaths or affirmations and examine witnesses.

(3) If a disciplinary committee is satisfied on the evidence presented to it in respect of a complaint under subsection (1) that the registered person—

- (a) is not guilty of unprofessional misconduct it shall so report to the Board and the Board shall confirm that finding and dismiss the complaint;
- (b) is guilty of unprofessional misconduct, it shall so report to the Board and recommend that the Board take one or more of the following measures, namely—
 - (i) reprimand the person;
 - (ii) impose restrictions or conditions on the certificate of registration or annual practising certificate;
 - (iii) suspend the person from practising for a certain period;
 - (iv) cancel the person’s registration;
 - (v) impose a financial penalty not exceeding \$2,000.

(4) A disciplinary committee may recommend to the Board that a party be ordered to pay costs.

(5) Upon receiving and considering the recommendations of a disciplinary committee pursuant to subsection (3), the Board shall decide what measures within subparagraphs (i) to (v) of paragraph (b) of that subsection should be imposed on a registered person in respect of a finding by the committee that the person is guilty of unprofessional conduct and may make such order, if any, as to costs as it deems fit, and in so deciding such measures or any such order as to costs the Board shall not be bound by the recommendations of the committee.

(6) Any financial penalty ordered by the Board under subsection (5) shall be paid to the Society and such penalty may be recovered by the Society as a debt.

Procedure for conducting disciplinary hearings

20. A disciplinary committee may make such rules of procedure for the conduct of disciplinary hearings as it deems fit.

Disciplinary Appeals Committee

21.—(1) There shall be a Disciplinary Appeals Committee (“the Appeals Committee”) for the purpose of hearing and determining appeals brought under section 22.

(2) The Appeals Committee shall consist of the following members—

- (a) a chairperson who shall be a legal practitioner of at least 7 years’ standing appointed by the Minister after consultation with the Attorney General;

- (b) a person appointed by the Minister on the nomination of the Fiji Society of Medical Imaging Technologists.
- (c) one other person appointed by the Minister.

(3) The Appeals Committee may allow, confirm or vary the decision of the Board which is the subject of the appeal.

Right of appeal

22.—(1) A registered person who is aggrieved by the decision of the Board under section 19(5) may appeal against the decision to the Disciplinary Appeals Committee.

(2) A registered person who wishes to bring an appeal under subsection (1) must file a notice of appeal with the Board within 30 days from the date on which the decision appealed against was sent to the person or within such further period as the Board may permit.

PART 6 — FIJI SOCIETY OF MEDICAL IMAGING TECHNOLOGISTS

Establishment of the Society

23.—(1) The association known as the Fiji Society of Radiographers that exists at the commencement of this Decree shall continue in being as an institution established under this Decree known as the Fiji Society of Medical Imaging Technologists.

- (2) The Society shall be a body corporate with perpetual succession and a common seal with power—
- (a) to sue and be sued in its corporate name;
 - (b) to own, hold and dispose of movable or immovable property;
 - (c) to do or suffer any other thing which a non-natural legal person may do or suffer.

Objects of the Society

24. The objects for which the Society is established are—

- (a) to maintain and improve the standards of conduct and practice of medical radiation technology and diagnostic imaging services in Fiji;
- (b) to promote the welfare and preserve and maintain the integrity of the profession;
- (c) to protect and preserve the interests and aspirations of medical radiation technology as a profession having regard to the terms and conditions of employment and health and safety of their members as well as present their complaints and views to appropriate authorities for consideration;
- (d) to assist in and provide the means necessary for carrying into effect the objects set out in paragraph (c);
- (e) to represent its members and assist in securing redress of any grievance or settling any points of dispute in which any of its members may be involved in the course of their employment;
- (f) to inquire on behalf of its members into any situation involving any charge, suspension, reduction in rank, position, grade or pay, dismissal or retirement affecting any of its members with a view to promoting a fair and reasonable settlement thereof and to make a genuine protest against any injustice committed against or suffered by any members in their employment;
- (g) to promote and maintain a high standard of professional ethics and conduct within the profession;
- (h) to facilitate the exchange of information and ideas on matters affecting medical imaging technology and the profession and such other occupations of a related character as may be prescribed;
- (i) to associate, affiliate or federate with any association, society or organisation having the same or similar objects to the Society;
- (j) to promote and enhance the spirit of mutual respect, loyalty and understanding between members of the Society and their employers;
- (k) to render mutual financial assistance to members of the Society in times of need;

- (l) to acquire, hold, develop or dispose of any movable or immovable property and to derive capital or income for the purposes of the Society from its renting or sale;
- (m) to keep and operate bank accounts in reputable banks and to deposit all moneys received into the accounts;
- (n) to borrow, with the agreement of the Council, such moneys as the Society may require from time to time for the performance of any of its activities;
- (o) with the agreement of the Council, to invest any moneys standing to the Society's credit in securities and to dispose of any such securities;
- (p) to pay the whole or any part of the expenses incurred by members in attending meetings of the Society or of any of the committees or sub-committees appointed by the Society in that behalf;
- (q) to pay all costs or other payments incidental to or connected with the discharge of any of the functions or activities assigned by the Society;
- (r) generally to do any such things as are desirable or essential in matters affecting the employment, educational welfare and training of the Society's members and to secure effective participation of its members in the administration and development of the institutions where they are employed or trained; and
- (s) to do all other things as are incidental to or connected with the effective and efficient or proper carrying into effect of any or all of the objects of the Society.

Vesting of assets and liabilities in the Society

25. On the commencement of this Decree all assets and liabilities of the Fiji Society of Radiographers, including any levy or money due and owing, shall be transferred to and vest in the Society.

Council of the Society: its functions and powers

26.—(1) There shall be a Council of the Society which shall consist of—

- (a) the President of the Society;
- (b) a Vice-President;
- (c) a Secretary;
- (d) a Treasurer;
- (e) an Assistant Secretary;
- (f) an Assistant Treasurer; and
- (g) 3 ordinary members,

all of whom are to be elected for a term of 3 years at an annual general meeting of the Society.

(2) The Council shall—

- (a) act as the executive authority for managing the affairs of the Society; and
- (b) exercise the functions, duties and powers of the Society given to or conferred on it by this Decree or any other written law.

Members of the Society

27.—(1) Membership of the Society shall consist of the following classes—

- (a) ordinary membership;
- (b) life membership;
- (c) associate membership;
- (d) honorary membership.

(2) Every registered person is eligible to be an ordinary member of the Society but the issue of a practising certificate is not conditional upon being a member.

(3) The Council may elect a person who is or has been an ordinary member and who has attained the age of 55 as a life member of the Society.

(4) The Council may elect a person who is a registered member of another medical profession who is, in the opinion of the Council, committed to the welfare, advancement or promotion of the objectives of the Society, as an associate member.

(5) The Society may, at an annual general meeting and on the recommendation of the Council, elect any person, other than an ordinary member or a life member, as an honorary member of the Society.

(6) An associate or honorary member is not eligible to be a member of the Council but is entitled to attend and speak at any meeting of the Society.

Subscriptions to the Society

28.—(1) Every ordinary member and associate member is required to pay an annual subscription to the Society, which the Council shall collect when issuing or renewing the annual practising certificate.

(2) The amount of the annual subscription shall be determined from time to time by the Council in accordance with rules made under section 30.

(3) Payment of the annual subscription is in addition to payment of the fee payable in respect of the issue of an annual practising certificate.

(4) Honorary members and life members are not required to pay an annual subscription.

Committees of the Council

29. The Council may appoint a committee to carry out any general or special function given to it by the Council.

Power to make rules

30. The Council may make rules of procedure for the conduct of its business, and in particular in respect of—

- (a) the authentication of any document;
- (b) the election and removal of officers;
- (c) the conduct of its meetings and voting at such meetings;
- (d) the resignation of a member of the Council and the filling of any vacancy on the Council;
- (e) the annual subscription;
- (f) the procedures for determining membership of the Council; and
- (g) any other matters for giving effect to the objectives of the Society or conducting its affairs.

Voting rights at general meetings of the Society

31.—(1) Every ordinary and life member present at a general meeting of the Society shall have the right to vote at such meeting.

(2) The President or other person performing and exercising the powers of the President in the absence of the President shall have a casting vote in the event of equality of votes in addition to an original vote.

(3) An associate or honorary member does not have the right to vote at a general meeting of the Society.

Accounts and reports

32.—(1) The Council shall keep proper books of accounts.

(2) The Council shall appoint an auditor to audit its accounts.

(3) The Council shall cause to be prepared an annual report which, together with its audited accounts, shall be laid before the annual meeting of the Society.

PART 7 — MISCELLANEOUS

Offences and penalties

33.—(1) A person who—

- (a) practises as a medical imaging technologist without being registered under Part 3 of this Decree;
- (b) being a registered person, practises as a medical imaging technologist without an annual practising certificate;

- (c) being a registered person and without the consent of Council, knowingly employs, engages or remunerates another person whose registration or annual practising certificate has been suspended or cancelled;
- (d) being a person whose certificate of registration or annual practising certificate has been suspended or cancelled, conceals the fact of such suspension or cancellation when seeking or accepting employment or remuneration from a registered person,

commits an offence and is liable on conviction to a fine of \$50,000 or to imprisonment for 2 years.

(2) Where a registered person is convicted of an offence under paragraph (b) or (c) of subsection (1)—

- (a) the Board may suspend or cancel the person's certificate of registration; and
- (b) the Council may suspend or cancel the person's annual practising certificate,

in addition to any penalty imposed by the court under subsection (1).

Council and Committee members, etc., not liable

34. A member of the Council or any committee of the Council, or any officer, employee or agent of the Council, is not personally liable for any act done in good faith and without negligence relating to the performance of any function or duty, or the exercise of any power, under this Decree.

Regulations

35.—(1) The Minister may make regulations to give effect to the provisions of this Decree, and in particular —

- (a) to regulate the training, examination and registration of medical imaging technologists;
- (b) to regulate practice of the profession;
- (c) to provide a code of conduct for medical radiation technologists;
- (d) to provide procedures for disciplinary committees and the Disciplinary Appeals Committee;
- (e) to provide for conditions, limitations or restrictions in respect of registrations;
- (f) to regulate use of the description of “medical imaging practitioner” and “medical imaging technologist”;
- (g) to prescribe anything which is to be prescribed under this Decree.

(2) Regulations may provide that a breach of a provision of a regulation shall be an offence and that the penalty for any such offence may be a fine not exceeding \$2,000 and imprisonment not exceeding 12 months.

Savings and Transitional

36.—(1) Subject to subsection (2), any person who, prior to the coming into force of this Decree, has been practising as or is qualified to practise as a medical imaging technologist and is currently practising as such in Fiji may continue for the time being to practise the profession without being registered as such under this Decree or holding an annual practising certificate.

(2) A person exempted under subsection (1) must within 12 months after the commencement of this Decree apply to the Board for registration under Part 3 and, once registered, must apply to the Council for and obtain there from an annual practising certificate under Part 4.

(3) A person to whom subsection (1) applies who fails to comply with subsection (2) is liable to be prosecuted for the offence under section 33(1)(a).

(4) Upon the commencement of this Decree, the registration of the Fiji Society of Radiographers under the Industrial Associations Act (Cap. 95) is deemed to have been cancelled.

GIVEN under my hand this 30th day of October 2009.

EPELI NAILATIKAU
Vice-President of the Republic of Fiji