

The Traditional Health Practitioners Act No 22 (2007) of South Africa: Its history, resolutions and implementations in perspective

(Part 3: Implementations)

Gabriel Louw¹ and André Duvenhage²

1. Research Associate, Focus Area Social Transformation, Faculty of Arts, Potchefstroom Campus, North-West University, Potchefstroom, South Africa
2. Research Director, Focus Area Social Transformation, Faculty of Arts, Potchefstroom Campus, North-West University, Potchefstroom, South Africa

RESEARCH

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Corresponding Author:

Prof Dr GP Louw
Focus Area Social Transformation
Faculty of Arts
Potchefstroom Campus
North-West University
South Africa
Email profgplouw@gmail.com

ABSTRACT

Background

The registration of an alleged 200,000 or more unregulated traditional healers in terms of the Traditional Health Practitioners Act (Act No 22, 2007) seems a challenging task. Section 1 of the Act prescribes clear legal guidelines for the registration of traditional healers on completion of a prescribed learning and training programme at an approved institution. The section also offers stipulations to acknowledge prior learning.

Aims

This study aimed to determine the various options open to traditional healers to obtain formal registration as traditional health practitioners.

Methods

This is an exploratory and descriptive study that follows the modern historical approach of investigation by means of a literature review. The emphasis is on using current documentation, like articles, books and news papers, as primary resources to reflect on the options available for the registration of traditional healers. It also puts the options for future registration of traditional healers in perspective. The findings are offered in narrative form.

Results

An inquiry into the Traditional Health Practitioners Act No 22 seems to reveal that its prescribed legal guidelines are too strict and too comprehensive to allow all ±200,000 traditional healers who are practising at present into the system. However, Act No 22 does make provision for other less rigid options, like acknowledging prior learning. This can allow the aspiring traditional health practitioner to obtain full or provincial registration.

Conclusion

There are implementation options available to accommodate a large number of unregistered healers into the system. The grandfather clause for instance recognizes prior learning and training. Another possibility is special entrance examinations.

Key Words

Education authorities, grandfather clause, traditional tutor, traditional health practitioner, unregulated healer

What this study adds:

1. What is known about this subject?

There is a paucity of information on the implementation options available to enact the Traditional Health

Practitioners Act No 22's resolutions and to register the first batch of traditional health practitioners.

2. What new information is offered in this study?

Act No 22 (2007) offers the guidelines to start registering the traditional health practitioners.

3. What are the implications for research, policy, or practice?

The Traditional Health Practitioners Act offered registration options to start registration of traditional health practitioners immediately, but this process has not gained any momentum after nearly 10 years.

Background

The definition: scope of practice

One of the biggest challenges awaiting the Traditional Health Practitioners Interim Council is the absorption of an assumed 200,000 practising traditional healers into the regulated system. Various implementation options are available to accommodate a large number of unregistered traditional healers into the traditional healthcare system. The grandfather clause for one recognizes prior learning and training. The Traditional Health Practitioners Act No 22 also provides for special entrance-examinations. Despite these options, various problems have been noted already, like the cost of the registration process and determining who may or who may not be registered.^{1–4}

It seems as if the Act's rigid guidelines on academic and professional training are just too ambitious to implement at this stage. The fact that the Traditional Health Practitioners Act No 22 has been lingering since 2007 (nine years) without full implementation, leaves the impression that the lawmakers did not thoroughly consider the impact of the Act on South African traditional and general healthcare. The lawmakers did not weigh the lack of know-how, financial means and managerial skills among the administrators of traditional healing to launch and manage a wholly new traditional health system.⁵

Developing and designing a one year programmes or two-to three-year courses, can take between two to four years. Add to this the development and running costs of establishing training institutions and the programme design and development costs. Programme designers with specialist knowledge on traditional healing must be employed to research the content of programmes. The Education Authorities prescribe fees for the registration of qualifications on the NQF and SAQO, etc. Infrastructure is also needed. Institutions have to be built from the ground,

qualified staff has to be recruited and paid, buildings have to be bought or erected, and facilities like libraries or tools like computers and textbooks have to be developed. All or this must meet the minimum standards of the Education Authorities.

On the upside, the comprehensive training and registration model for traditional healers as foreseen by the Traditional Health Practitioners Act No 22, will surely uplift the training, skills and competence of the future traditional healer.⁵

However, for the practicing traditional healer, regardless of whether his training was excellent or under par, the Act spells disaster in terms of cost to obtain extra qualifications, time to study, isolation in rural areas and various other obstacles. They lack formal education to master new study materials, especially computer skills, etc. What is more, the approximate 200,000 practising healers are just too many to reach with the new training approach and intentions of the Traditional Health Practitioners Act No 22. The use of a guillotine act to select traditional healers that are capable and to reject healers that are not, can be very subjective. It can do harm in terms of practice rights, privileges and the income of thousands of healers in South Africa. Harmony between the interest of the profession and the interest of the individual practitioners is essential if the Traditional Health Practitioners Act No 22 is to be successful in the future. Other options, away from the rigid registration guidelines of Act No 22, must be considered.^{3,4}

The training model included in the Traditional Health Practitioners Act No 22 (2007) harbours an array of immediate problems that force to the foreground the registration dilemma of the approximated 200,000 traditional healers. Other acceptable and easy options and pathways to immediately register as many as possible of the 200,000 traditional healers must also be investigated.⁵

The aim of the study is to determine the various options available for registration as a traditional healer in terms of the Traditional Health Practitioners Act No 22.

Method

The research was done by means of a literature review. This method aims to formulate a viewpoint based on the available evidence as the research developed in the literature. This approach is frequently used in modern historical research where there is a shortage of information on the topic. The databases used were EBSCOHost, Sabinet online and various contemporary sources, like newspaper articles from 2015, articles from 1992 to 2014, books for the

period 1995 to 2013 and governmental documents covering the period 2007 to 2015. This research puts the future options for the registration of the traditional healers into perspective.^{6,7} The findings are offered in the narrative form.

Results

The dilemma of 200,000 healers in waiting

The problems and challenges inherent in the registration model of the Traditional Health Practitioners Act No 22 can further delay the enactment of the Act and the formal introduction of traditional health practitioners as healthcare professionals. The dilemma of approximately 200,000 traditional healers who are anxiously awaiting registration is a problem that should be addressed immediately.

On the one hand, the current period of no registration or even unlimited postponement of the implementation of the Act seems a wise decision. This can allow better future planning and in-depth research on traditional healing as a fraternity.

On the other hand, the formal recognition of the traditional healer as a healthcare provider has been dawdling for nine years now. Further delays in formal registration can have a negative outcome that can make positive outcomes impossible. It is therefore crucial to revisit and critically reconsider the present registration process of the traditional healer to take a new look at the various routes to address the registration dilemma related to the ±200,000 practising traditional healers.

Closed-door Policy

A **passive** approach to the present registration dilemma threatens to create conflict between the healers and governmental authorities. This has already been evident from protest actions. The traditional healers have been waiting on the government since 1994 to make good on its promises of the 1960s to regulate traditional healing and to register traditional healers.^{2,3,8–11}

A further sensitive matter is surely the requirement that the currently unregulated, but established traditional healer must first obtain a qualification or pass a qualifying examination to be registered.^{5,12}

Such a **closed-door policy** is unacceptable and will offer very few healers the opportunity to register. In all likelihood, thousands of traditional healers experience the present situation as a repeated full-scale discrimination against

them, similar to the Apartheid period. Civil unhappiness and protest may be the order of the day.³

Other options and pathways outside the rigidity of the Traditional Health Practitioners Act No 22 are urgently needed to accommodate the approximate 200,000 traditional healers successfully. Some solutions are available and ready for use.

These options and pathways, the so-called **open-door policy**, are: a) the *grandfather clause* or *prior learning/experience model* that will result in the registration of traditional healers on the register without other requirements; and b) the use of a single *entrance examination* to register.

Open-door Policy or the grandfather clause

The grandfather or open-door clauses of the Traditional Health Practitioners Act No 22 (2007) make provision for the registrar to register aspiring traditional healers who are deemed fit in terms of the requirements of the Act. This is reflected in Section 21(3), read together with Section 21(4), which include no stipulations for minimum training.⁵

This open-door clause also makes provision for the registrar to refuse such an application. The applicant can submit his application to the Council itself in terms of Section 21(4), or if the applicant feels aggrieved by registrar's refusal, he or she has the right to appeal to the Council in terms of Section 27(1). He or she also has the right, if aggrieved by the Council's decision, to appeal to the appropriate High Court in terms of Section 27(2).⁵

Section 22(2) makes it possible to recognize prior learning for registration as a traditional health practitioner in terms of the grandfather clause. The following stipulation regulates this matter:⁵

Any qualification contemplated in Subsection 22(1), obtained on its own or conjointly with any other qualification, entitles a holder thereof to registration in terms of this Act if he or she has, before, in connection with, or after the acquisition of the qualification in question, complied with the prescribed conditions or requirements.

In addition, the grandfather clause acknowledges previous training and experience for direct entrance to registration as stipulated in Section 44(2), which reads:⁵

No person other than a person registered in terms of this Act, and holding the necessary qualifications, is eligible for or entitled to hold any appointment to any establishment, institution, body, organization or association, whether public or private, if such appointment involves the performance of any Act which an unregistered person, in terms of this Act, may not perform for gain: provided that nothing in this subsection precludes the training of traditional health practitioners or students under the supervision of a suitably qualified traditional health practitioner, or the employment in any hospital or similar institution of any person undergoing training with a view to registration in terms of this Act, under the supervision of a suitably qualified traditional health practitioner or other health professional.

The amendment to the Traditional Health Practitioners Act No 22, (the Traditional Health Practitioners Regulations of 2015), recognizes certain circumstances in which tradition healers can be registered directly. Regulations No 2015: Regulation 10 reads:¹²

The circumstances under which any applicant for the registration of any category or speciality may be exempted from any of the prescribed requirements of Act No 22 is that the applicant who, on promulgation of these Regulations, is a diviner, herbalist, birth attendant or traditional surgeon may be registered as such by the Registrar on the basis of the documentary proof he/she may produce to the Registrar, or on basis that the community regarded him/her to be a diviner, herbalist, traditional birth attendant or traditional surgeon.

The above stipulation makes it possible that all ±200,000 traditional healers can be registered on the Council's register through the open-door policy. In this way, they can obtain immediate statutory status as traditional health practitioners. All that is needed from a traditional healer, in terms of this open-door policy, is to apply for registration with certified declarations by two witnesses stating that the applicant-traditional healer *is applying at present the trade of traditional healer in one or more of the definite categories and practice for instance for more than five years*. Proof of in-house training, for instance for periods of six months to five years, is *optional*. The same is applicable to a certified declaration by a *traditional tutor* (healer) that the applicant-traditional healer was trained by him. The Traditional Health Practitioners Regulations (No 1052, 2015) provides a form for this registration in terms of the grandfather clause registration titled, *Application Form: Registration as a*

Traditional Health Practitioner. It is issued by the Traditional Health Practitioners Council of South Africa (THPCSA).^{5,12}

Specific requirements in terms of training and experience

The above open-door policy of a direct, immediate and automatic process of registration can be made stricter by adding requirements in terms of Section 22(2), but without any formal examination. In this case only well-trained healers with experience and documented backgrounds can be allowed into the system.⁵

This stricter application of the grandfather clause can be the best way to start the initial process of registration. This approach can decrease the ±200,000 traditional healers to as few as 20 000 in terms of the Pretorius¹³ criterion, which argues that as many as 90% of traditional healers may fail to meet the requirements of registration.

An entrance examination as a requirement

Another approach by the Council can be a formal entrance examination, as prescribed in Section 22(1).⁵

Section 22(1) of the Traditional Health Practitioners Act No 22 refers to an entrance examination that can be determined by the registrar to register traditional health practitioners. It reads that the Minister may, on the recommendation of the Council, prescribe the minimum qualifications to be obtained by virtue of examinations conducted by an accredited institution, education authorities or other authority in the Republic of South Africa.⁵

A prominent question at this stage is who will be deemed objective and skilled assessors and moderators for such an examination process? The present unregulated traditional healers (now suddenly to be registered as *traditional tutors* in terms of the Traditional Health Practitioners Act No 22), whose professional training is basically null? Will this examination be based on the definition *traditional philosophy* (Section 1) and can the legal description "*traditional medicine* communicated from ancestors to descendants or from generations to generations, with or without written documentation, whether supported by science or not", be a guideline for examination? Will the examination questions be based on how the student had learned his traditional healing knowledge, for instance "while he was submerged on a riverbed when ancestral spirits take possession of him, when he was treated for psychosis, when he had to find hidden objects with the help of ancestors or with the throwing of bones, or on the receiving of knowledge of traditional medicines

communicated from ancestors to him as a descendant without any written documentation”, as the definition *traditional philosophy* and other customs indicate?⁵

The examination should be of a high standard, designed and compiled by a respected and educated examination board, consisting of registered medical practitioners, psychiatrists, psychologists, homeopaths, naturopaths, chiropractors, osteopaths, phyto-therapists, nurses and pharmacists.

This approach of examination by outsiders not related to the traditional fraternity will surely not be easily accepted by the Interim Council or the traditional fraternity as a whole. A formal entrance examination therefore seems to be the less favoured approach to register the ±200,000 traditional healers.

Discussion

Immediately registering all the ±200,000 traditional healers of South Africa with full or even provisional registration status in terms of the strict guidelines of the Traditional Health Practitioners Act No 22 is just impossible. Before the curriculum vitae of each of the 200,000 applicants can be evaluated, a well-described evaluation guideline with criteria regarding academic, technical and practical know-how has to be first compiled. This process can take another five years or more and can involve large amounts of money. The traditional fraternity's frustration with waiting can lead to unrest.

Other options to initiate the registration of the ±200,000 traditional healers should be explored. The best option to overcome the stumbling blocks of the registration system seems to be the use of the grandfather clause with its indiscriminate registration option. Even this process is going to be time and cost consuming and can take another three years.

Strength and limitations

This study successfully offers a guideline for the immediate launch of the registration process for traditional healers in South Africa.

A lack of research by the traditional healing fraternity to guide their own future development hampered this research's future predictions on the traditional healers' registration outcomes.

Conclusion

To register ±200,000 traditional healers is an immense challenge for the Traditional Health Practitioners Interim

Council (THPIC). This is evident from the fact that the THPIC has been dragging with the registration system since 2007.

A “closed-door policy” to strictly regulate the registration of traditional healers is unacceptable and will discriminate against the majority of healers. It will do injustice to thousands of healers waiting eagerly for registration since 1994. Civil unhappiness and unrest may follow.

Of the various implementation options available in terms of Act No 22 (2007) to accommodate a large number of unregistered traditional healers in the traditional healthcare system, the grandfather clause, (which gives recognition to prior learning and training or proposes a special entrance examination) is the best.

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