



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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General Notice

ALLIED HEALTH PROFESSIONS COUNCIL OF NAMIBIA

No. 387

2007

PROFESSIONAL CONDUCT RULES: THE ALLIED HEALTH PROFESSIONS ACT, 2004

The President of the Interim Allied Health Professions Council of Namibia, under section 36(3) of the Allied Health Professions Act, 2004 (Act No. 7 of 2004), makes known that the Interim Allied Health Professions Council, with the written approval of the Minister of Health and Social Services, has made the professional conduct rules set out in the Schedule.

J.P.C. HENN
VICE PRESIDENT
INTERIM ALLIED HEALTH
PROFESSIONS COUNCIL

Windhoek, 27 November 2007

SCHEDULE

PROFESSIONAL CONDUCT RULES

Definitions

1. In this Schedule, unless the context otherwise indicates, a word or expression defined in the Act has the same meaning, and -

“Annexure” means an Annexure to these rules;

“association” means a form of practising where two or more registered persons practise their respective professions, each one for his or her own account, but share joint assets or facilities;

“close collaboration” means consultation, with any person referred to in rule 21(1)(c), by a registered person, at one stage or another during the treatment of a patient, and the furnishing at the completion of such treatment of a report on the treatment by that registered person to the person so consulted;

“Council” includes the Interim Allied Health Professions Council of Namibia established under section 59 of the Act;

“practice” means a business conducted by a registered person relating to his or her profession;

“registered person” relating to any profession to which the Act applies, means a person who is registered under the Act to practise such profession, or who is regarded to be so registered; and

“the Act” means the Allied Health Professions Act, 2004 (Act No. 7 of 2004).

Acts or omissions by registered persons which constitute unprofessional conduct

2. (a) The acts or omissions set out in these rules constitutes unprofessional conduct by a registered person.
- (b) The Allied Health Professional Council may conduct inquiries and disciplinary proceedings under the Act, subject to section 36(2) of the Act.

Health status and identity of patient

3. A registered person who fails to safeguard the health status of his or her patient by means of -

- (a) keeping accurate and confidential records of all the acts he or she performed in connection with the patient;
- (b) keeping accurate and confidential records of all the treatments he or she performed in connection with the patient,

is guilty of unprofessional conduct.

Advertising, canvassing and touting under certain circumstances

4. Any registered person who -
- (a) advertises, or permits, sanctions or acquiesces in the advertisement of, his or her professional services in the media, including the Internet, and the advertisement -
 - (i) is not factually correct;
 - (ii) is misleading; or
 - (iii) harms the dignity or honour of the profession; or
 - (b) is involved in canvassing or touting for business, either personally or through agents or in any other manner, or either in respect of his or her practice or the practice of another registered person; or
 - (c) provides information to a patient which is incompatible with the requirement set out in these rules; or
 - (d) in material published by the registered person, refer to the quality of the services offered by him or her, his or her personal qualities or the level of his or her performance; or
 - (e) if he or she is aware that material about him or her is to be published, fails to object to the publication of that material, if the material avers or suggests that the abilities of that registered person are better than those of other registered persons or of any other registered person; or
 - (f) instigates, sanctions or acquiesces in, or personally arranges, the publication by any other person of any form of material that promotes or commends the quality of the services offered, or the personal qualities or level of performance of that registered person,

is guilty of unprofessional conduct.

Accepting or receiving fees or commission

5. A registered person who -
- (a) accepts any commission or any other form of reward from any person in return for the purchase, sale or supply of goods, substances or materials used by the registered person in the conduct of his or her professional practice;
 - (b) pays any commission or any other form of reward to any person for recommending the registered person to patients or for referring patients to the registered person;
 - (c) shares fees received for the provision of health services with any person, excluding -
 - (i) with a registered person with whom he or she practises in association; or

- (ii) with a registered person, who is a *locum tenens* or with whom he or she practises in partnership, regarding the provision of the health services; or
- (d) charges or receives fees for the provision of health services not personally rendered, except for such services rendered by a registered person -
 - (i) with whom he or she practises in an association; or
 - (ii) who is a *locum tenens* or with whom he or she practises in partnership, regarding the provision of the health services,

is guilty of unprofessional conduct.

Practising in a partnership or in association

6. If a registered person practises in partnership or association with any person who is not-

- (a) registered under the Act; or
- (b) practising within the scope of practice of the profession in respect of which he or she is registered with the Council; or
- (c) practising a profession which is approved by the Council as a profession which is acceptable for the purposes of a partnership with that registered person,

is guilty of unprofessional conduct.

Printing information on professional stationary, signs or nameplates under certain circumstances

- 7.** Any registered person who -
- (a) prints or causes to be printed on his or her letterheads, account forms or name plates, any information other than -
 - (i) his or her name and the name of his or her practice;
 - (ii) his or her profession, registered category and speciality (if applicable);
 - (iii) his or her registered qualifications, including registered additional qualifications and registered specialities;
 - (iv) his or her academic qualifications registered with the Council;
 - (v) honorary degrees, in abbreviated form, held by him or her;
 - (vi) his or her business address and home address, including e-mail address, telephone numbers and facsimile numbers;
 - (vii) his or her hours of consultation;
 - (viii) his or her practice number; and

- (ix) information referred to in subparagraphs (i) to (viii) in relation to registered persons with whom the registered person is practising in a partnership or in association; or
- (b) uses, as part of the name of his or her practice, the word “hospital” or “clinic” or “health facility” or “health service” or any other word that may create the impression that the practice forms part of, or is associated with, a hospital, clinic or any other health facility or health service; or
- (c) exhibits on signs, other than the nameplate referred to in paragraph (e), which indicate the existence of his or her practice at a certain location, more information than a description of the field of practice of the registered person, accompanied by an arrow pointing in the direction of the location of the practice, if necessary; or
- (e) displays, in the case of the relocation of his or her practice to another premises, for a period of longer than six months at the vacated premises, the name and new address of the practice; or
- (f) displays, in the case of a change in the membership of a partnership, in which he or she conducts his or her practice, a name plate for a period of longer than six months after the change has occurred, without reflecting the change in the membership on the nameplate; or
- (g) uses the name of a hospital or a private health facility or of a private health service, which may be interpreted as implying that services to be provided at such practice have received some official recognition not extended to other registered persons,

is guilty of unprofessional conduct.

Superseding another registered person under certain circumstances

- 8.** (1) A registered person who -
- (a) is aware that a patient seeking treatment is being treated by any other registered person; and
 - (b) supersedes the other registered person without taking reasonable steps to inform that other registered person of the superseding,

is guilty of unprofessional conduct.

(2) For the purposes of this regulation, “other registered person” includes a person registered under the Social Work and Psychology Act, 2004 (Act No. 6 of 2004), the Nursing Act, 2004 (Act No. 8 of 2004), the Pharmacy Act, 2004 (Act No. 9 of 2004) or the Medical and Dental Act, 2004 (Act No. 10 of 2004) to practise a profession.

Impeding a patient

9. (1) Any registered person who prevents, or attempts to prevent, a patient or any other person acting on behalf of a patient, from obtaining the opinion of, or treatment from, any other registered person, is guilty of unprofessional conduct.

(2) For the purposes of this regulation, “other registered person” includes a person registered under the Social Work and Psychology Act, 2004 (Act No. 6 of 2004), the Nursing Act, 2004 (Act No. 8 of 2004), the Pharmacy Act, 2004 (Act No. 9 of 2004) or the Medical and Dental Act, 2004 (Act No. 10 of 2004) to practise a profession.

Professional reputation of colleagues

10. (1) Any registered person who makes or publishes in any manner any negative allegations regarding the probity or professional reputation or skill of any other registered person is guilty of unprofessional conduct.

(2) For the purposes of this regulation, “other registered person” includes a person registered under the Social Work and Psychology Act, 2004 (Act No. 6 of 2004), the Nursing Act, 2004 (Act No. 8 of 2004), the Pharmacy Act, 2004 (Act No. 9 of 2004) or the Medical and Dental Act, 2004 (Act No. 10 of 2004) to practise a profession.

Divulging information regarding a patient under certain circumstances

11. Any registered person who divulges to any other person, whether or not that other person is a registered person, confidential information regarding a patient, unless such information is divulged -

- (a) with the express written consent of the patient;
- (b) if the patient is a minor, with the written consent of that patient’s parent or guardian, and with the express written consent of that minor duly assisted by his or her parents or guardian;
- (c) in the case of a deceased patient, with the written consent of that patient’s next of - kin or the executor of his estate;
- (d) in any court of law if so instructed by the presiding judicial officer; or
- (e) in accordance with any provision of any law,

is guilty of unprofessional conduct.

Certificates and reports

12. Any registered person who issues a certificate of indisposition to a patient, which certificate does not contain the following information :

- (a) The name, physical address and qualifications of the registered person who issued the certificate;
- (b) the first name and surname, and the identity number or date of birth, of the patient;
- (c) the employment number of the patient (if applicable);
- (d) the date and time of the examination;
- (e) an indication of whether the certificate is being issued as a result of personal observations by the registered person during an examination, or as the result of information received from the patient and which is based on acceptable medical grounds;

- (f) a description of the illness or disorder the patient is suffering from;
- (g) an indication of whether the patient is completely indisposed for any kind of duty or whether the patient will be able to perform duties less strenuous than his or her normal duties in the work situation;
- (h) the exact period of recommended sick leave; and
- (i) the date of issue of the certificate of illness, is guilty of unprofessional conduct.

Accepting professional appointments under certain circumstances

13. Any registered person who accepts any appointment relating to his or her profession in circumstances where the contract of appointment has not been prepared, in the opinion of the Council, with due regard to the interests of the public and of the profession, is guilty of unprofessional conduct.

Making use of secret remedies

- 14.** Any registered person who, in the conduct of his or her practice, makes use of
- (a) any form of treatment, apparatus or technical process which is secret or that he or she claims to be secret; or
 - (b) any apparatus which proves upon investigation by, or at the request of, the Council to be incapable of fulfilling the claims made in regard to that apparatus; or
 - (c) any diagnostic or treatment methods which do not comply with the accepted standards of the profession as determined by the Council from time to time,

is guilty of unprofessional conduct.

Sharing consulting rooms or waiting rooms

- 15.** Any registered person who, in relation to his or her practice -
- (a) shares consulting rooms or waiting rooms with; or
 - (b) utilises the entrance of, or has a nameplate at, the entrance of the consulting or waiting room of,

any person who is not a registered person, is guilty of unprofessional conduct.

Communicating with certain persons or preventing Council or a member of Council from carrying out statutory duties

- 16.** Any registered person who -
- (a) communicates in any manner in respect of any aspect of evidence, with a person who is to be a witness or any person in a disciplinary inquiry held or to be held into the conduct of that registered person; or
 - (b) permits, sanctions, or acquiesces in any communication referred to in paragraph (a);

- (c) knowingly commits an act or omission that prevents, calculated to prevent, the Council or any member of Council from carrying out any statutory duty,

is guilty of unprofessional conduct.

Permitting exploitation

17. Any registered person who permits himself or herself to be exploited in a manner detrimental to the public interest or the interest or integrity of his or her profession, is guilty of unprofessional conduct.

Failing to disclose financial interest in a hospital, clinic or health facility

18. Any registered person who refers patients to a private hospital, clinic or health facility as defined in section 1 of the Hospital and Health Facilities Act, 1994 (Act No. 36 of 1994), in which he or she, or any other registered person with whom he or she is practising in partnership or is associated with in respect of a practice, has any financial interest, without displaying a conspicuous notice, to the satisfaction of the Council, in his or her waiting rooms indicating that he or she, or that other registered practitioner, has a financial interest in that hospital, clinic or health facility, is guilty of unprofessional conduct.

Employing or consulting with certain persons

- 19.** (1) Any registered person who -
- (a) employs as an assistant or as a *locum tenens* any person who is not registered under the Act to practise the profession for which he or she is so employed; or
 - (b) employs, co-operates or consults with, or in any way assists, any other person who provides health services, while that other person is not registered under the Act to practise the relevant profession; or
 - (c) assists any other registered person in respect of unprofessional conduct in relation to the practice of that other registered person,

is guilty of unprofessional conduct.

- (2) Subrule (1) does not apply to -
- (a) assistance by a registered person to any other registered person referred to in paragraph (c) of that subregulation in an emergency, and if the registered person informs the council in writing of such emergency assistance within a reasonable period of time thereafter; or
 - (b) consultation with or assistance to persons or organisations approved by Council in writing.
- (3) For the purposes of this regulation, "any other registered person" includes a person registered under the Social Work and Psychology Act, 2004 (Act No. 6 of 2004), the Nursing Act, 2004 (Act No. 8 of 2004), the Pharmacy Act, 2004 (Act No. 9 of 2004) or the Medical and Dental Act, 2004 (Act No. 10 of 2004) to practise a profession.

Prescribing or supplying medicine under certain circumstances

20. Any registered person who prescribes or supplies any scheduled substance as defined in the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), unless he or she is duly authorised and licensed to do so in accordance with, or is found guilty of the contravention of any other provision of, that Act, is guilty of unprofessional conduct.

Performance of acts pertaining to a profession under certain circumstances

21. (1) Any registered person who performs, except in the case of an emergency, any act relating to his or her profession -

- (a) in respect of which he or she is inadequately trained or in sufficiently experienced; or
- (b) under improper conditions or in improper surroundings, or
- (c) where conditions calling for medical attention are observed or suspected, except in close collaboration with any other registered person who is adequately qualified to perform such act,

is guilty of unprofessional conduct.

(2) For the purposes of this regulation, “any other registered person” includes a person registered under the Social Work and Psychology Act, 2004 (Act No. 6 of 2004), the Nursing Act, 2004 (Act No. 8 of 2004), the Pharmacy Act, 2004 (Act No. 9 of 2004) or the Medical and Dental Act, 2004 (Act No. 10 of 2004) to practise a profession.

Performance of acts specified in an Annexure

22. Any registered person who fails to comply with the provisions of any Annexure to these rules applicable to the profession in respect of which that registered person is registered with the Council, is guilty of unprofessional conduct.
