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GENERAL NOTICE

NOTICE 660 OF 2012

DEPARTMENT OF HEALTH

NURSING ACT, 2005 (ACT 33 OF 2005)

REGULATIONS SETTING OUT THE ACTS OR OMISSIONS IN RESPECT OF WHICH THE COUNCIL MAY TAKE DISCIPLINARY STEPS

The Minister of Health intends, in terms of section 58(1)(i) of the Nursing Act, 2005 (Act No 33 of 2005), after consultation with the South African Nursing Council, to make the regulations in the Schedule.

Interested persons are invited to submit any substantiated comments or representations on the proposed regulations to the Department of Health (For attention of Director: Public Entities and Management, Private Bag X828, Pretoria, 0001, within a period of three months from the date of publication of this notice.

SCHEDULE

CHAPTER 1

Definitions

1. In these regulations “**the Act**” means Nursing Act, 2005 (Act No 33 of 2005), and any word or expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context otherwise indicates;

“**advertisement**” means any visual or aural communication, representation, reference or notification of any kind –

(a) which is intended to promote the use of any goods or services; or

(b) which appeals for or promotes the support of any cause;

and advertising has a corresponding meaning;

CHAPTER 2

2 The acts or omissions set out in this chapter are deemed to be acts or omissions in respect of which the council can take disciplinary steps against a practitioner registered in terms of the act.

3 Notwithstanding the provision in regulation 2, the acts and omissions set down hereunder shall not be or are not intended to be a complete list of offences which may be punishable.

Practice

4 Failure to carry out such acts in respect of the assessment, diagnosing, treatment, care, prescribing, collaborating, referral, coordinating and patient advocacy as the scope of practice permits;

5 Failure to maintain the health status of a patient under his or her care through -

(a) assessing the health status of the patient and the responses of the body;

(b) the correct and appropriate administration of treatment and care;

(c) the prevention of accidents, injury or other trauma;

(d) the prevention of the spread of diseases and infections;

(e) the checking of all forms of diagnostic and therapeutic interventions for the patient;

(f) the specific care and treatment of the very ill, the disturbed, the confused, the aged, infants and children, the unconscious, patient with communication problems, the vulnerable and high risk patient;

(g) the monitoring of vital parameters including vital signs of the patient; and

(h) failure to keep clear and accurate records of all actions performed to a patient;

6 Failure to identify a patient correctly;

7 Performance of professional acts, in relation to patients, for which he or she is inadequately trained or insufficiently experienced, except in cases of emergency;

8 Failure or refusal to provide emergency medical treatment.

Adverse Conduct

9 Sexual assault of a patient;

10 Assault of a patient or colleague while on duty;

11 Any conduct bringing the profession into disrepute.

Advertising and Touting

12 (1) Advertising of professional services in a manner that–

(a) is not factually correct;

(b) is misleading;

(c) harms the dignity or honour;

- (d) is calculated to suggest that his or her professional skill or ability or his or her facilities for practicing his profession or rendering his or her professional services are superior to those of other practitioners;
 - (e) is aimed at promoting a specific practice or a specific practitioner's technique or treatment;
 - (f) is intended to make known a product or business or institution or organization of any nature whatsoever for whatever purpose and in any way whatsoever;
- (2) Permitting one's name to be used in a professional capacity in connection with advertising;
- (3) Touting or canvassing for a patient for himself or herself or for any other person, either personally or through the mediation of an agent or in any manner whatsoever.

FINANCIAL INTEREST

- 13
- (a) Accepting or insisting on any commission or remuneration, financial or otherwise from manufacturers of, or dealers in medicines, remedies or any equipment, apparatus instrument, appliance or material which is used in the course of his or her practice or prescribed to patients;
 - (b) Paying or giving any person commission or remuneration, financial or otherwise, or offer any person anything for the recommendation of patients;
 - (c) Accepting any commission or remuneration, financial or otherwise from any person for the referral of patients;
 - (d) Sharing any fees collected for a service with any person other than a partner, unless such sharing is commensurate with the extent of such other person's participation in the rendering of such service;
 - (e) Overcharging patients for professional services rendered;

- (f) over servicing of patients for financial gain;
- (g) charging for services not rendered.

PROFESSIONAL SECRECY

14 (1) Disclosure of information pertaining to a patient obtained in the course of his or her professional activities except –

- (a) with the express consent of the patient; or
- (b) in the case of a minor, with the consent of the parent or guardian; or
- (c) in the case of a patient who is deceased, with the consent of the surviving spouse or a child of the deceased who is of age; or
- (d) in the exclusive interest of a patient who is not able to, or is not capable of granting permission; or
- (e) in a professional consultation with any person involved in the treatment of the patient; or
- (f) where such information must be furnished to a person authorized by law to request.

RELATIONSHIPS WITH OTHER COLLEAGUES AND HEALTH PROFESSIONALS

- 15 Impeding a patient or a person properly acting on behalf of a patient, who desires to obtain the advice of or treatment by another person who is authorized by law to advise or treat persons concerning their health, to consult such person;
- 16 Practicing or carrying on from his or her consulting rooms any business, trade, work except with the prior written consent of the council;

- 17 Sharing of consulting rooms with any person other than a person registered in terms of the Act, without prior written consent of the council;
- 18 Entering into a partnership with any person other than a person registered in terms of the Act, without prior written consent of the council except in case of a person who is not registered in terms of any other act in respect of a profession which is approved by the council in the public interest and with consideration of professional ethics, as an acceptable profession for the purpose of partnership or professional co-operation;
- 19 Supporting or assisting any person in any manner whatsoever, in illegal practices or actions;
- 20 Employing any person, who is not registered in terms of the Act, to perform nursing acts;
- 21 Criticizing, without justification, explicitly or by implication, the probity or professional reputation, skill, knowledge, service or qualifications of any person registered under the Act or members of other health service professions;
- 22 Failure, in the interest of the patient, to co-operate with colleagues or other members of health service professions;
- 23 Conducting his or her practice or himself or herself in such a manner that the dignity or the honour of the profession is harmed;

RELATIONS WITH THE COUNCIL, ITS MEMBERS AND OFFICIALS

- 24 Any act or omission which prevents or hinders or is calculated to prevent or hinder the Council, a committee of the council or the Registrar from carrying out its or his or her statutory duties;
- 25 In any manner whatsoever bringing the Council into disrepute;
- 26 Failing to observe the provisions of any act, rule or regulation applying to persons registered under this Act, or allowing a person under his or her supervision and control

to contravene such provisions or inciting, instigating, ordering or encouraging any person to contravene such provisions.

CHAPTER 3 MIDWIVES

- 27 The acts or omissions set out in this chapter are deemed to be further acts or omissions in respect of which the council can take disciplinary steps against a practitioner registered in terms of section 31(b);
- 28 Regulation 4 to 27 shall apply mutatis mutandis to a practitioner registered in terms of the act as a professional nurse and midwife;
- 29 Failure to carry out such acts in respect of the assessing monitoring, diagnosing, treatment, care, prescribing, collaboration, referral, co-coordination and patient advocacy as the scope of practice permits;
- 30 Failure to protect the name, person and possessions of a mother and child under his or her care or charge during the course of pregnancy, labour and the puerperium through –
- (a) the correct identification of the mother and child;
 - (b) the prevention of infection and spread of infection;
 - (b) the checking and monitoring at reasonable intervals of all forms of diagnostic and therapeutic interventions;
 - (f) the specific care and treatment of the vulnerable and or high risk mother and child;
- 31 Failure to keep clear and accurate records of the progress of pregnancy, labour and the puerperium and all acts performed in connection with a mother and child;
- 32 Failure to comply with conditions under which he or she may carry on his or her profession as promulgated by Government notice No: R2488 of 26 October 1990;

- 33 Acting beyond the scope of practice in purporting to perform the acts of a person registered in terms of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), or the Pharmacy Act (Act No.56 of 1974) for which acts the midwife is unqualified to perform.


CHAPTER 4 AUXILLARY MIDWIVES

- 34 The acts or omissions set out in this chapter are deemed to be further acts or omissions in respect of which the council can take disciplinary steps against a practitioner registered in terms of section 31(1) (e);
- 35 Regulation 4 to 27 shall apply mutatis mutandis to a practitioner registered in terms of the act as an auxiliary midwife;
- 36 Failure to identify the health needs and to promote the health of mother and child through such acts and procedures as the scope of his or her practice permits;
- 37 Failure to protect the name, person and possessions of a mother and child under his or her care or charge through –
- (a) the correct identification of the mother and child;
 - (b) the prevention of infection and of the spread of infection;
 - (c) the carrying out at reasonable intervals of all observations and interventions while the mother and child are in his or her care and the recording thereof;
- 38 Failure to comply with conditions under which he or she may carry on his or her profession as promulgated by Government notice No: R 2488 of 26 October 1990;
- 39 Acting beyond the scope of practice in purporting to perform the acts of a person registered in terms of the Act, Medical, Dental and Supplementary Health Service

Professions Act, 1974 (Act No. 56 of 1974), or the Pharmacy Act (Act No.56 of 1974) for which acts the auxiliary midwife is unqualified to perform;

Title

- 40 These Regulations are called Regulations setting out the acts or omissions in respect of which the council may take disciplinary steps, made in terms of the Nursing Act, 2005 (Act No 33 of 2005).



**DR A MOTSOLEDI
MINISTER OF HEALTH**

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