



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$10.91

WINDHOEK - 28 January 1999

No. 2040

CONTENTS

| | <i>Page</i> |
|--|-------------|
| GOVERNMENT NOTICES | |
| No. 10 Nursing Professions Act, 1993: Rules relating to the acts or omissions by registered or enrolled persons constituting improper conduct or misconduct | 1 |
| No. 11 Regulations relating to the registration and enrolment of certain persons under the Nursing Professions Act, 1993 | 15 |
| No. 12 Nursing Professions Act, 1993: Regulations relating to the lodging of complaints, charges or Allegations against registered or enrolled persons and the conducting of inquiries | 51 |
| No. 13 Nursing Professions Act, 1993: Regulations relating to the scope of practice of persons who are registered or enrolled under the Nursing Professions Act, 1993 | 64 |
| No. 14 Nursing Professions Act, 1993: Regulations relating to the Advanced University Diploma in Operating Room Nursing Science | 71 |
| No. 15 Regulations relating to the course for the Diploma in Ophthalmological Nursing: Nursing Professions Act, 1993 | 74 |

Government Notices

MINISTRY OF HEALTH AND SOCIAL SERVICES

No. 10 1999

NURSING PROFESSIONS ACT, 1993: RULES RELATING TO THE ACTS OR OMISSIONS BY REGISTERED OR ENROLLED PERSONS CONSTITUTING IMPROPER CONDUCT OR MISCONDUCT

The Nursing Board has under section 28(1) of the Nursing Professions Act, 1993

(Act No. 30 of 1993), and, with the approval of the Minister of Health and Social Services, issued the rules set out in the Schedule.

SCHEDULE

CHAPTER 1

PRELIMINARY PROVISIONS

Definitions

1. In these rules, unless the context otherwise indicates, an expression defined in the Act has a corresponding meaning, and -

"advertisement" means any written, illustrated, visual or other descriptive material or verbal statement or reference which -

- (a) appears in a newspaper, a magazine, a pamphlet or in any other publication;
- (b) is distributed amongst members of the public;
- (c) has been fixed to, or appears on, walls, windows or boards; or
- (d) is brought to the attention of members of the public in any other manner,

and which is meant to -

- (i) promote a specific practice or a specific technique or treatment by a nurse, a midwife or an enrolled nursing auxiliary;
- (ii) make known the professional proficiency or knowledge by a nurse, a midwife or an enrolled nursing auxiliary; or
- (iii) make known a product, a business, an institution or an organisation of any nature, for any purpose, and in any way,

and "advertising" has a corresponding meaning;

"*bona fide* patient" means a patient who was at any time in the past been treated by the nurse, the midwife or the enrolled nursing auxiliary concerned;

"midwife" means a registered midwife or an enrolled midwife;

"nurse" means a registered nurse or an enrolled nurse;

"practitioner" means a person registered or authorised to practise under -

- (a) the Allied Health Services Professions Act, 1993 (Act No. 20 of 1993);
- (b) the Medical and Dental Professions Act, 1993 (Act No. 21 of 1993); or

(c) the Pharmacy Professions Act, 1993 (Act No. 23 of 1993);

"the Act" means the Nursing Professions Act, 1993 (Act No. 30 of 1993).

CHAPTER 2

ACTS OR OMISSIONS BY REGISTERED NURSES CONSTITUTING IMPROPER CONDUCT OR MISCONDUCT

2. The following acts or omissions by a registered nurse, as set out in this Chapter, shall constitute improper conduct or misconduct in respect of which the Board may conduct inquiries and take disciplinary steps in terms of Part V of the Act:

- (a) Omitting or neglecting to carry out such acts relating to monitoring, diagnosing, treatment, prescription, collaboration, referral, co-ordination and patient advocacy as the scope of the profession of a registered nurse requires;
- (b) omitting or neglecting to maintain the health status of a patient under his or her care or charge, or to protect the name, person and possessions of that patient, through -
 - (i) the correct identification of the patient;
 - (ii) the determination of the health status of the patient and the physiological responses of the body to disease conditions, trauma and stress;
 - (iii) the correct administration of treatment, medication and care;
 - (iv) the prevention of accidents, injury or other trauma;
 - (v) the prevention of infection and of the spread of infection;
 - (vi) the checking of all forms of diagnostic and therapeutic interventions for the individual;
 - (vii) the specific care and treatment of the seriously ill patient, the disturbed patient, the confused patient, the aged patient, infant and children patients, the unconscious patient, the patient with communication problems and the vulnerable and high-risk patient; and
 - (viii) the monitoring of all vital signs of the patient concerned;
- (c) omitting or neglecting to keep clear and accurate records of all actions which he or she performs in connection with a patient;
- (d) contravenes section 27(1)(b), (2)(b) or (c) or (3) of the Act;

(e) advertising -

- (i) or permitting such advertisement, for professional gain, other than by indicating his or her name, address, telephone number, hours of attendance and registered qualification; or
- (ii) of any other person, whether or not such person is registered or enrolled under the Act or is a practitioner, or any product, business, institution or organisation of any nature, for any purpose and in any way, or permitting his or her name or photograph, whether or not he or she is in uniform, to be used in such advertisement,

but the actions by a registered nurse, as set out in the Appendix to these rules shall not constitute advertising;

(f) the use by a registered nurse who is in private practice of a name plate at his or her permanent consulting rooms or permanent residence, which exceeds 360 mm x 210 mm in size and which bear other particulars in addition to his or her -

- (i) title, initials and surname;
- (ii) registered profession and field of practice;
- (iii) professional qualifications or additional qualifications registered by him or her as such or as specialities;
- (iv) telephone numbers; and
- (v) hours of consultation,

but if a registered nurse prefers not to have particulars concerning telephone numbers and hours of consultation to be indicated on a name plate containing the particulars referred to in this paragraph, a separate plate, not exceeding 360 mm x 210 mm in size, with the telephone numbers and hours of consultation concerned, may be affixed directly below such name plate;

- (g) in the case of an itinerant practice, the use of a name plate which exceeds the size stipulated in paragraph (f) and which bear other particulars than those referred to in that paragraph, and the days and hours of consultation when he or she will be available at his or her consulting rooms, may be indicated on a separate plate or surface, not exceeding 360 mm x 210 mm in size;
- (h) the use of more than one name plate at each entrance to a building in which his or her consulting rooms are situated and on or next to the door of such consulting rooms, but -
 - (i) a name plate may, with the prior approval of the Board, be affixed to an outer wall or pillar of the building concerned if such building does not have suitable facilities for a name plate to be affixed to it,

and the particulars stipulated in paragraph (f) may, with the prior approval of the Board, where such building has no such facilities for a name plate to be affixed to it, be affixed in a framed area of 360 mm x 210 mm on a glass window as close as possible to the entrance of the building in which the consulting rooms are situated;

- (ii) if facilities exist in the entrance hall or on the ground floor of a building in which the consulting rooms of a registered nurse are situated to indicate the names of tenants, the title, initials, surname and profession of the registered nurse may be indicated in such places;
 - (iii) a plate with the initials and surname of a registered nurse and a direction indicator on it may be displayed in the corridor of the floor where the consulting rooms of that nurse are situated;
- (i) If -
- (i) a registered nurse has taken over the practice of another registered nurse; or
 - (ii) a partner, a shareholder of a company or a member of a close corporation dies or retires,
- the display of the name plate of the predecessor, the deceased or the retired partner, shareholder or member, for more than 12 months after the date of the take over, death or retirement, and failure by the person who has taken over the practice to display his or her name during the period referred to in this paragraph;
- (j) if a registered nurse has moved to consulting rooms at a new address, the display of a notice to this effect at the previous address, mentioning the new address of his or her consulting rooms, for more than 12 months from the date of so moving;
 - (k) causing or permitting the appearance of any other information on professional stationery and business cards, apart from -
 - (i) the name of the registered nurse and partner, shareholder of a company or member of a close corporation, if any;
 - (ii) the registered profession, field of practice and abbreviations in respect of qualifications registered by the Board;
 - (iii) addresses and telephone numbers; and
 - (iv) hours of consultation.
 - (l) canvassing or touting for patients for himself or herself or for any other person, whether personally or through an agent, or in any other manner;

- (m) carrying on of an itinerant practice for less than one month, at a place where a registered nurse does not render a complete and satisfactory service to his or her patients in such practice on a regular basis and which place is not similar to the place where the registered nurse carries on his or her main practice;
- (n) accepting or insisting on any commission or remuneration, financial or otherwise, from manufacturers of, or dealers in, medicine, remedies or any equipment, apparatus, instrument, appliance or material which is used in the course of practice of a registered nurse or prescribed to patients;
- (o) paying or giving commission or remuneration to any person, financial or otherwise, or the offering of anything to any person for the recommendation of patients;
- (p) accepting commission or remuneration, financial or otherwise, from any person for the recommendation of patients;
- (q) sharing of fees collected for a service, with any person other than a partner, a shareholder of a company or a member of a close corporation, unless the sharing is commensurate with the extent of the other person's participation in the rendering of that service;
- (r) charging higher fees for professional services rendered than the fees prescribed in terms of the Act;
- (s) issuing a certificate of sickness when a registered nurse is not convinced, from his or her personal observation or from what the patient has communicated to him or her, that the facts stated in that certificate are correct, and where a certificate of sickness is issued only on the grounds of the communication of a patient or another person the registered nurse shall specifically mention that fact in the certificate;
- (t) divulging information concerning a patient, which information has become known to a registered nurse in his or her professional capacity, but this paragraph shall not apply if the information is made known -
 - (i) with the explicit consent, in writing, of a patient who is of age, of the parent or guardian of a patient who is a minor, or of the surviving spouse or child who is of age, or of a patient who is deceased;
 - (ii) on the instruction of a court of law or where a registered nurse is lawfully bound to make that information known;
 - (iii) in the exclusive interest of a patient who is not able to, or is not capable of, granting permission; or
 - (iv) in a professional consultation with anybody involved in the treatment of the patient or, in the exclusive interest of the patient, with any other person;

- (u) applying or using in a practice -
 - (i) any form of treatment, apparatus or process which is secret or claimed to be secret;
 - (ii) any apparatus which upon inspection by the Board does not prove to be capable of fulfilling the claim made in respect of it; or
 - (iii) diagnostic and treatment methods which do not comply with the accepted standards as determined by the Board;
- (v) impeding a patient, or a person properly acting on behalf of a patient, who desires to obtain the advice of, or treatment by, a practitioner, from consulting that practitioner;
- (w) performing, except in a case of emergency, an act which does not pertain to his or her registered profession or for which he or she has inadequate training or experience;
- (x) using consulting rooms connected to or with a corridor to premises or portion of premises where another business, trade, work or profession different from the profession in which he or she is registered in terms of the Act, is practised or carried on, but the entrance and corridors of a public building in which his or her consulting rooms are situated, or a connection which may not be used by patients, shall not be deemed to be an unauthorised connection or thoroughfare;
- (y) Practising or conducting from the consulting rooms of a registered nurse any business, trade, work or profession other than the profession in which he or she is registered in terms of the Act, except with the consent, in writing, of the Board and subject to such conditions as the Board may determine;
- (z) sharing consulting rooms with someone other than a person referred to in paragraph (cc), without the consent in writing of the Board;
- (aa) displaying, subject to paragraph (bb), in the consulting rooms of a registered nurse, other certificates apart from -
 - (i) certificates, diplomas and degrees which have a bearing on the profession in which he or she is registered; and
 - (ii) membership certificates of professional associations with which he or she is affiliated;
- (bb) omitting or neglecting to display clearly in the consulting rooms of a registered nurse the registration certificate issued to him or her in terms of the Act;
- (cc) entering into a partnership, incorporating a company or establishing a close corporation or where such partnership, company or close

corporation already exists at the coming into effect of these rules, maintaining such partnership, company or close corporation, with a person who is not -

- (i) registered or enrolled under the Act; or
 - (ii) registered under any other Act in respect of a profession which is approved by the Board in the public interest and with consideration of professional ethics, as an acceptable profession for the purpose of partnership, incorporation of a company or establishment of a close corporation;
- (dd) unilaterally breaking, without the approval of the other party, a contract of service into which he or she has entered;
- (ee) refusing, omitting or neglecting to execute any lawful duties for which he or she has been employed;
- (ff) supporting or assisting any person in any way in illegal practice or action;
- (gg) employing of any person who is not registered or enrolled in terms of the Act, to perform nursing acts, but this paragraph shall not apply in an emergency;
- (hh) tendering for a full-time, part-time or any other kind of nursing appointment;
- (ii) taking the place of another nurse or midwife who is in charge of a case in respect of which he or she acted together with or on behalf of that nurse or midwife, without the consent of that nurse or midwife, unless the consent is unreasonably refused or unless no other nursing, midwifery or medical assistance is available;
- (jj) taking over a case of another nurse or midwife without first being convinced that the patient or the person in charge of the case has notified the nurse or the midwife who was originally in charge of the case that he or she no longer requires his or her services;
- (kk) in accordance with the exigencies of the circumstances and the seriousness of the condition of a patient -
- (i) neglecting to refer the patient for medical care where such care is beyond the scope of practice of the nurse and delaying that referral;
 - (ii) neglecting to do what he or she can do to save a life, to arrest deterioration in the health status of the patient, to prevent deformity or to reduce pain and suffering;
 - (iii) in circumstances where the patient is in the care of a registered nurse, but the control over the medical treatment of that patient rests with any person other than that nurse, neglecting to execute

without reasonable grounds any verbal or written prescriptions or any request made to that nurse by that person with regard to the medical treatment of that patient, or where the prescription or request is not executed, to inform that person of the non-execution as soon as practically possible;

- (ll) unjustified casting of reflections, explicitly or by implication, upon the probity or professional reputation, skill, knowledge, service or qualifications of any person registered or enrolled under the Act or any practitioner;
- (mm) performing any act which is calculated to -
 - (i) prevent the Board, a committee of the Board or the secretary of the Board from performing a duty which may be lawfully performed by the Board, the committee or the secretary; or
 - (ii) bring the Board or any member or official of the Board into contempt of discredit, unless the act concerned is the truth and is in the public interest;
- (nn) permitting a registered nurse to be exploited in a manner detrimental to the public or professional interest;
- (oo) omitting or neglecting to notify the Board that he or she acquires, possesses, uses or supplies scheduled substances in accordance with the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965);
- (pp) omitting or neglecting to submit proof to the Board that he or she has followed a programme approved by the Board with regard to the acquisition, possession, use or supply of scheduled substances permitted in his or her practice in accordance with the provisions of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965); or
- (qq) recovering, where he or she conducts a private practice, more money from a patient than the costs involved in the purchase and shelving of the scheduled substances concerned plus interest on capital outlay, not exceeding the prime lending rate as determined by the Bank of Namibia.

CHAPTER 3

REGISTERED MIDWIVES

Application of certain rules to registered midwives

3. Rule 2(e) to (qq) of these rules shall *mutatis mutandis* apply to registered midwives.

Acts or omissions by a registered midwife constituting improper conduct or misconduct

4. The following acts or omissions by a registered midwife, as set out in this Chapter, shall, in addition to those referred to in rule 3, constitute improper conduct or misconduct in respect of which the Board may conduct inquiries and take disciplinary steps in terms of Part V of the Act;

- (a) Omitting or neglecting to carry out such acts relating to monitoring, diagnosing, treatment, prescription, collaboration, referral, co-ordination and patient advocacy as the scope of the profession of a registered midwife requires;
- (b) omitting or neglecting to protect the name, person and possessions of a mother and child under his or her care or charge in the course of pregnancy, labour or the puerperium through -
 - (i) the correct identification of the mother and the child;
 - (ii) the prevention of accidents, injury or other trauma;
 - (iii) the prevention of infection and of the spread of infection;
 - (iv) the checking and monitoring at reasonable intervals of all forms of diagnostic and therapeutic interventions; and
 - (v) the specific care and treatment of the vulnerable, high-risk mother and child, the seriously ill patient, the disturbed patient, the confused patient, the unconscious patient and the patient with communication problems;
- (c) omitting or neglecting to keep clear and accurate records of the progress of pregnancy, labour and the puerperium, and all actions which he or she performs in connection with a mother and child;
- (d) failing to comply with any regulation setting out the conditions under which he or she may conduct his or her profession; or
- (e) contravening section 27(1)(b), (2)(a) or (3).

CHAPTER 4

ENROLLED NURSES

Application of certain rules to enrolled nurses

5. Rule 2(e) to (qq) of these Rules shall *mutatis mutandis* apply to enrolled nurses.

Acts or omissions of an enrolled nurse constituting improper conduct or misconduct

6. The following acts or omissions by an enrolled nurse shall, in addition to those referred to in Rule 5, constitute improper conduct or misconduct in respect of which the Board may conduct inquiries and take disciplinary steps in terms of Part V of the Act:

- (a) Omitting or neglecting to carry out such nursing care as his or her enrolment requires under the direct or indirect supervision or direction of a registered nurse, or where applicable, under the direct or indirect supervision of a medical practitioner or a dentist or on his or her direction or written or verbal prescription;
- (b) committing any act or omission which brings or is likely to bring the Board, any committee of the Board or any of its members or officials, into contempt or disrepute, or which hampers or is likely to hamper the work of the Board; or
- (c) contravening section 27(1)(b), (2) or (3).

CHAPTER 5**ENROLLED MIDWIVES****Application of certain rules to enrolled midwives**

7. Rule 2(e) to (qq) of these rules shall *mutatis mutandis* apply to enrolled midwives.

Acts or omissions of an enrolled midwife constituting improper conduct or misconduct

8. The following acts or omissions by an enrolled midwife shall, in addition to those referred to in paragraph 7, constitute improper conduct or misconduct in respect of which the Board may conduct inquiries and take disciplinary steps in terms of Part V of the Act:

- (a) Omitting or neglecting to identify 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;
- (b) omitting or neglecting to protect the name, person and possessions of a mother and child under his or her care or charge through -
 - (i) the correct identification of the mother and the child;
 - (ii) the prevention of accidents, injury or other trauma;
 - (iii) the prevention of infection and of the spread of infection;

- (iv) 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 of those observations and interventions;
- (c) failing to comply with any regulation setting out the conditions under which he or she may carry on his or her profession; or
- (d) contravening section 27(1)(b), (2)(a) or (3).

CHAPTER 6

ENROLLED NURSING AUXILIARY

Acts or omissions of an enrolled nursing auxiliary constituting improper conduct or misconduct

9. The following acts or omissions by an enrolled nursing auxiliary shall constitute improper conduct or misconduct in respect of which the Board may conduct inquiries and take disciplinary steps in terms of Part V of the Act:

- (a) Omitting or neglecting to carry out such nursing care as his or her enrolment permits under the direct or indirect supervision or direction of a registered nurse or an enrolled nurse, or where applicable, under the direct or indirect supervision of a medical practitioner or a dentist or on his or her direction or written or verbal prescription;
- (b) advertising or permitting an advertisement, for professional gain, other than by indicating his or her name, address, telephone number, hours of attendance and enrolled qualification in that advertisement;
- (c) advertising any other person, whether or not that person is registered or enrolled under the Act or is a practitioner, or any product, business, institution or organisation of any nature, for any purpose and in any way, or permitting his or her name or photograph, whether or not he or she is in uniform, to be used in that advertisement;
- (d) breaking, without good cause, any contract of service into which he or she has entered;
- (e) failing to observe the principles of professional secrecy; or
- (f) committing any act or omission which brings or is likely to bring the Board, any committee of the Board or any of its members or officials, into contempt or disrepute, or which hampers or is likely to hamper the work of the Board.

CHAPTER 7**GENERAL PROVISIONS****Acts or omissions not constituting complete list of offences**

10. The Acts or omissions contemplated in Chapters 2 to 6 of these rules do not constitute a complete list of offences under the Act.

Powers of Board to take disciplinary steps in absence of complaint, charge or allegation

11. The Board may take disciplinary steps even if no complaint, charge or allegation has been laid before it.

Repeal of rules

12. The rules published by Government Notices R.1648, R.1649 and R.1650 of 14 September 1973 are hereby repealed.

APPENDIX
(Rule 2(e) (ii))

ACTIONS BY A REGISTERED NURSE NOT CONSTITUTING ADVERTISING

- (a) A communication to a *bona fide* patient concerning change of address, hours of consultation and telephone numbers, or the formation or dissolution of a partnership, a company or a close corporation, if such communication is addressed to the patient concerned and is enclosed in an envelope;
- (b) a communication to another nurse, a midwife, an enrolled nursing auxiliary, a practitioner, a social worker, a hospital, a health facility, or other person or institution approved by the Board, that he or she has commenced a practice, if such communication is addressed to the person concerned and is enclosed in an envelope;
- (c) the entry, in ordinary print, of the profession, field of practice, address and telephone numbers of the residence and consulting rooms of the registered nurse, and the name, profession and field of practice of a partner, a shareholder in a company or a member of a close corporation in a telephone directory;
- (d) the publication of articles of a health science nature in professional journals and books in connection with health, with the mentioning of his or her name and with professional qualities;
- (e) the divulgence of his or her views on topics of a health science nature in the lay press or on the radio or television, or the holding of a lecture or address for a lay audience, with the mentioning of his or her name, if that registered nurse -
 - (i) serves in a full-time or part-time health services or post-secondary educational institutions and is not in private practice; or
 - (ii) acts as an officer or a member of the Namibian Nursing Association or of the Board and on the instruction of such Association or the Board;
- (f) the use of a name plate as stipulated in rule 2(f) or (i) of these rules;
- (g) the use of stationery as stipulated in rule 2(k) of these rules;
- (h) in the case of itinerant practice, making his or her intention to visit a place known to the persons referred to in paragraphs (a) and (b) of this Appendix; or
- (j) the promotion of the interest of an organisation registered in terms of the National Welfare Act, 1965 (Act No. 79 of 1965), a professional nursing association or society, a health service at any level of government, an educational service approved by the Board and any other organisation, body or institution approved by the Board.