



GOVERNMENT GAZETTE

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Government Notice

MINISTRY OF HEALTH AND SOCIAL SERVICES

No. 197 2002

RULES RELATING TO IMPROPER CONDUCT OR MISCONDUCT BY A MEDICAL PRACTITIONER: MEDICAL AND DENTAL PROFESSIONS ACT, 1993

The Minister of Health and Social Services has under section 29(2) of the Medical and Dental Professions Act, 1993 (Act No. 21 of 1993), approved -

- (a) the rules issued by the Medical Board under section 29(1) of that Act as set out in the Schedule; and
- (b) the repeal of the rules published by Government Notice No. R. 2278 of 3 December 1976 in so far as they relate to medical practitioners.

SCHEDULE

Definitions

1. In these rules, any word or expression to which a meaning has been assigned in the Act shall have that meaning and, unless the context otherwise indicates -

“association” means a group of two or more practitioners practising for their own accounts, but sharing facilities or assets for the purpose of conducting their practices;

- (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 medical profession.
- (b) is involved in the canvassing or touting for patients, whether personally, through an agent or in any other manner;
- (c) provides information to a patient, which is incompatible with the requirements set out in these rules;
- (d) in material published by the medical practitioner, refers to the quality of his or her services, personal qualities or level of performance;
- (e) in cases where 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 -
 - (i) suggests that the abilities of the medical practitioner concerned are comparably better than those of other medical practitioners;
 - (ii) is to be published in a manner likely to attract patients to the medical practitioner concerned or to promote his or her practice; or
 - (iii) is likely to encourage patients to consult the medical practitioner concerned;
- (f) instigates, sanctions or acquiesces in, or personally arranges, the publication by any other person of any form of material that commends the quality of the services, personal qualities or level of performance of that medical practitioner.

Articles, books and appearances in the media by medical practitioners

5. A medical practitioner is guilty of improper conduct or misconduct, if the medical practitioner -

- (a) writes a book or article or participates in a presentation or discussion of health issues through the media or before lay audiences, without possessing the necessary knowledge and skill in respect of the field of medicine to which the presentation or discussion relates;
- (b) in the book, article or at a presentation or discussion referred to in paragraph (a), gives particulars relating to the medical practitioner, other than -
 - (i) the name;
 - (ii) current appointment and qualifications; and
 - (iii) factual references to publications, whether forthcoming or past;
- (c) presents information to the public about his or her professional standing, which implies that he or she is the only, the best or the most experienced person practising in his or her particular field;
- (d) if he or she speaks about the management of health conditions on a public media programme, refers to his or her practice or discredits other medical practitioners;

- (h) uses a name for a private health facility, which may be interpreted as implying that services to be provided have received some official recognition not extended to other medical practitioners;
- (i) uses prescription forms or envelopes on which the name and address of a pharmacist are printed.

Carrying on itinerant practice under certain circumstances

7. A medical practitioner is guilty of improper conduct or misconduct, if the medical practitioner carries on a regular itinerant practice at a place where another medical practitioner is established, unless -

- (a) the medical practitioner renders in such itinerant practice the same service to a patient, and at the same cost, as the service he or she would render in the area in which he or she is resident; and
- (b) is able to render an equivalent service to that of the established medical practitioner.

Accepting or receiving fee or commission

8. A medical practitioner is guilty of improper conduct or misconduct, if the medical practitioner -

- (a) accepts a commission from any person in return for the purchase, sale or supply of any goods, substances or materials used by the medical practitioner in the conduct of his or her practice;
- (b) pays a commission or any other form of reward to any person for recommending the medical practitioner to patients or for referring patients to the medical practitioner;
- (c) shares fees received for the provision of health services with any person, except -
 - (i) with a practitioner with whom he or she is in an association with regard to the provision of the health services; or
 - (ii) with a medical practitioner, who is a *locum tenens* or with whom he or she is in a partnership with regard to the provision of the health services; or
- (d) charges or receives fees for the provision of health services not personally rendered, except for services rendered by -
 - (i) a practitioner with whom he or she is in an association with regard to the provision of the health services; or
 - (ii) a medical practitioner, who is a *locum tenens* or with whom he or she is in a partnership with regard to the provision of the health services.

* Practising in a partnership under certain circumstances

9. A medical practitioner is guilty of improper conduct or misconduct, if the medical practitioner practises in a partnership, which is concerned with the provision of health services, with a person who is not registered as a medical practitioner.

- (b) the name of the patient;
- (c) the employment reference 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 medical practitioner during an examination or as the result of information received from the patient, which is based on acceptable medical grounds;
- (f) a description of the illness or disorder in laymen's language;
- (g) an indication of whether or not the patient is completely indisposed for duty or whether or not the patient is able to perform less strenuous duties in his or her work situation;
- (h) the exact period of recommended sick leave;
- (i) the date of issue of the certificate of indisposition.

Omitting to delete inapplicable words from stationary or refusing to issue report

16. A medical practitioner is guilty of improper conduct or misconduct, if the medical practitioner -

- (a) uses reprinted stationary and omits to delete words from that stationary, which are not applicable; or
- (b) refuses to issue a brief and factual report to a patient, which the patient requires on reasonable grounds.

Accepting professional appointment under certain circumstances

17. A medical practitioner is guilty of improper conduct or misconduct, if the medical practitioner accepts any appointment relating to the medical profession in circumstances where the contract of appointment is not -

- (a) in writing;
- (b) available to the Board on request; or
- (c) drawn up with due regard to the interests of the public and the medical profession.

Making use of secret remedies

18. A medical practitioner is guilty of improper conduct or misconduct, if the medical practitioner in the conduct of his or her practice makes use of -

- (a) any form of treatment, apparatus or technical process, which is secret or is claimed to be secret; or
- (b) any apparatus which proves upon investigation by, or on the request, of the Board to be incapable of fulfilling the claims made in regard to that apparatus.

Sharing consulting rooms or waiting rooms under certain circumstances

19. A medical practitioner is guilty of improper conduct or misconduct, if the medical practitioner, in relation to his or her practice, shares consulting or waiting rooms with, or utilises the entrance or has a nameplate at the entrance of the consulting or waiting rooms of, any person who is not a practitioner.

Rule 25 amended
by 553 May 04 No. 3198
Notice 87 - delete Rule 25

Dispensing under certain circumstances

25. A medical practitioner is guilty of improper conduct or misconduct, if the medical practitioner -

- (a) subject to paragraph (b), dispenses medicine for patients other than on a prescription by the medical practitioner;
- (b) in circumstances where there is a pharmacy, which provides adequate dispensing services in the neighbourhood of the medical practitioner's practice, dispenses medicine other than in a case of emergency; or
- (c) dispenses medicine in such a way that the dispensing forms the major part of his or her practice.

Prescribing or supplying medicine under certain circumstances

26. A medical practitioner is guilty of improper conduct or misconduct, if the medical practitioner prescribes or supplies any substance listed in Schedules 5, 6 or 7 of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), to a patient -

- (a) unless the medical practitioner has ascertained through a personal examination of the patient, or by virtue of a report by another medical practitioner, who has treated or is treating that patient, that such prescription or supply is necessary for the treatment of the patient; or
- (b) except in the case of a repeating prescription for, or the supply of, a substance in respect of a patient with a chronic illness.

Failing to disclose financial interest in hospital or clinic

27. A medical practitioner is guilty of improper conduct or misconduct, if the medical practitioner refers patients to a private hospital or private health facility as defined in section 1 of the Hospitals and Health Facilities Act, 1994 (Act No. 36 of 1994), in which he or she, or a partner with whom he or she is associated in respect of a practice, has a financial interest, without displaying a conspicuous notice in his or her waiting rooms indicating that he or she, or that partner, has a financial interest in that hospital or clinic.

Relationship with private hospital and private health facility

28. A medical practitioner, who has a financial interest in a private hospital or private health facility and is a manager of a private hospital or private health facility as defined in section 1 of the Hospitals and Health Facilities Act, 1994 (Act No. 36 of 1994), is employed by such private hospital or private health facility to perform health services or accepts for examination or treatment patients referred to him or her by such private hospital or private health facility, is guilty of improper conduct or misconduct, if the medical practitioner -

- (a) irrespective of whether or not the owners of the private hospital or private health facility, or persons operating as partners in respect of the private hospital or private health facility, are themselves medical practitioners, fails to satisfy himself or herself, before he or she associates himself or herself with the private hospital or private health facility -
 - (i) that any advertisements, which the private hospital or private health facility releases or permits to be released-
 - (aa) are factual;