



**MEDICAL AND DENTAL PROFESSIONS BOARD**

**GUIDELINES FOR GOOD PRACTICE IN MEDICINE,  
DENTISTRY AND THE MEDICAL SCIENCES**

**ETHICAL AND PROFESSIONAL RULES OF THE  
MEDICAL AND DENTAL PROFESSIONS BOARD**

**BOOKLET 3**

**PRETORIA  
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## THE SPIRIT OF PROFESSIONAL GUIDELINES

Medicine, dentistry and the medical sciences are professions based on a relationship of trust with patients. The term "profession" means "a dedication, promise or commitment publicly made".<sup>1</sup> To be a good doctor, dentist or medical scientist requires a life-long commitment to good professional and ethical practices and an overriding dedication to the good of one's fellow humans and society. In essence, the practice of medicine, dentistry and the medical sciences is a moral enterprise. In this spirit the Medical and Dental Professions Board presents the following ethical guidelines.

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<sup>1</sup> Pellegrino, ED. Medical professionalism: Can it, should it survive? *J Am Board Fam Pract* 2000; **13**(2):147-149 (quotation on p. 148).

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## ETHICAL AND PROFESSIONAL RULES OF THE MEDICAL AND DENTAL PROFESSIONS BOARD

<b>NOTES</b>
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1. This Booklet contains the draft Regulations pertaining to ethical and professional rules of the Board. These draft Regulations were agreed to by the Board at its meeting in March 2002 for submission to the Health Professions Council of South Africa for recommendations to the Minister of Health, and if approved, for publication in the *Government Gazette*.
2. A number of the Chairpersons of the eleven other Professional Boards have since indicated that they wish their Professional Boards also to accept these draft Regulations for their professions. As soon as all of the other Boards have resolved on this issue and have finalised the Annexures pertaining to their professions, this part will be replaced by an adjusted version which will be applicable to a wider spectrum of health professions.
3. In the meantime, these draft Regulations are presented as those applicable to medicine, dentistry and the medical sciences.



**DEPARTMENT OF HEALTH**

No. R. ....

..... 2002

**HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA**

**REGULATIONS WHICH SPECIFY THE RULES OF CONDUCT TO WHICH A MEDICAL PRACTITIONER, DENTIST OR MEDICAL SCIENTIST SHALL ADHERE IN ORDER THAT DISCIPLINARY STEPS NOT BE TAKEN AGAINST HIM OR HER**

The Minister of Health intends, under section 49(1), read with section 61(2), of the Health Professions Act, 1974 (Act No. 56 of 1974), to make the regulations proposed by the Health Professions Council of South Africa, in consultation with the Medical and Dental Professions Board, as set out in the Schedule.

Interested persons are invited to submit any substantiated comments or representations on the proposed regulations to the Director-General: Health, Private Bag X828, Pretoria, 0001 (for the attention of the Director: Human Resource Development), within one month of the date of publication of this notice.

**SCHEDULE**

**Definitions**

In these regulations "the Act" means the Health Professions Act, 1974 (Act No. 56 of 1974), and any word or expression to which a meaning has been assigned in the Act shall bear such meaning, and, unless inconsistent with the context -

"annexure" means the annexure to these regulations;

"association" means a form of practising where two or more practitioners practise for their own account, but share communal assets and/or facilities;

"board" means the Medical and Dental Professions Board established by Government Notice No. R.75 of 16 January 1998;

"close collaboration" means consultation by a practitioner at one stage or another in the treatment of a patient of another practitioner and the furnishing at the end of treatment of a report on the treatment to the practitioner whom he or she consulted;

"intern" means a person registered as an intern in medicine or any of the medical sciences under the Act;

"itinerant practice" means a practice which a practitioner conducts on a regular basis at a location other than at his or her normal practice address;

"medical scientist" means a person registered under the Act as a biomedical engineer, clinical biochemist, genetic counselor, medical biological scientist or medical physicist;

"practitioner", for the purposes of these regulations, means a person registered under the Act as a medical practitioner, dentist or medical scientist and, in the application of rules 7 to 9 of these regulations, also a juristic person exempted from registration in terms of section 54A, as well as an

anaesthetist assistant and a health assistant;

“public service” means a service rendered by the State at the national, provincial and local level of government and includes organisations which function under its auspices or are largely subsidised by the State or recognised by a board for the purpose of these regulations;

“section” means a section of the Act;

“student” means a person registered under the Act as a medical student or a dental student;

"supervision" means the acceptance of liability for the acts of another practitioner.

## **RULES OF CONDUCT TO WHICH A STUDENT, INTERN OR PRACTITIONER SHALL ADHERE**

The following rules of conduct shall be adhered to by a student, intern or practitioner. Failure to comply with any conduct listed herein shall constitute an act or omission in respect of which the board may take disciplinary steps in terms of Chapter IV of the Act: Provided that the conduct listed hereunder as rules, shall not be deemed to constitute a complete list of professional rules of conduct. The board may, therefore, inquire into and deal with any complaint of unprofessional conduct which may be brought before it. At such an inquiry, the board will be guided by these rules, the *Guidelines for Good and Ethical Practice in Medicine, Dentistry and the Medical Sciences*, as well as the *Ethical Rulings* which the board makes and publishes from time to time.

### **Advertising**

Rule 1. A practitioner shall only advertise his or her services or permit, sanction, or acquiesce to such advertisement if it is done in the manner determined by the board from time to time.

### **Canvassing and touting**

Rule 2. A practitioner shall not -

- (a) canvas for patients in whatever manner from door to door in any particular area to recruit patients either verbally or by handing out promotional material;
- (b) tout for patients in whatever manner by improperly drawing attention, either verbally or by means of the printed or electronic media to the titles, professional attainments, personal qualities, superior knowledge or quality of service of a particular practitioner or by improperly drawing attention to his or her practice or best prices offered.

### **Information on professional stationery**

Rule 3. (1) A practitioner shall only print or have printed on letterheads and account forms information pertaining to the practitioner's name, profession, registered professional category, speciality or subspeciality (if any), registered professional qualifications or other academic qualifications and honorary degrees in abbreviated form, registration category and number, addresses, telephone numbers, hours of consultation, and practice number: Provided that a group of practitioners practising as a juristic person which is exempted from registration in terms of section 54A or a group of practitioners practising in partnership, may indicate such fact on their letterheads and account forms.

(2) A practitioner shall not use prescription forms or envelopes bearing the name and address of a pharmacist.

### **Practice names**

Rule 4. A practitioner shall only use a name for a private practice -

- (a) which shall be his or her own name or the names of the registered persons with whom he or she is in partnership or with whom he or she practises in the manner of a juristic person (as provided for in section 54A), and may retain the name of such a practice even if the original practitioner or practitioners, partner or partners or the members of the juristic person are no longer part of such a practice;
- (b) which shall not include the expression "hospital" or "clinic" or "institute" or any other special term which could create the impression that such a practice forms part of, or is in association with a hospital, clinic or similar facility.

### **Itinerant practice**

Rule 5. It shall only be permissible for a practitioner to conduct a regularly recurring itinerant practice at a place where another practitioner is established if, in such itinerant practice, he or she renders the same service to his or her patients, at the same fee or fees, as the service which he or she would render in the area in which he or she is resident.

### **Commissions and fees**

Rule 6. A practitioner shall not -

- (a) accept commission from a person or another practitioner in return for the purchase, sale or supply of any goods, substances or materials used by him or her in the conduct of his or her professional practice;
- (b) pay commission to any person for recommending patients;
- (c) share fees with any person or practitioner who has not taken a commensurate part in the services for which those fees are charged;
- (d) charge or receive fees for services not personally rendered, except for services rendered by another practitioner with whom he or she is associated as a partner, shareholder or *locum tenens*.

### **Partnerships and juristic persons**

Rule 7. (1) A practitioner shall only -

- (a) practise in partnership or association with or employ a practitioner registered under the Act;
- (b) practise in or as a juristic person exempted from registration under section 54A if that juristic person is complying with the conditions of such exemption;

- (c) practise in a partnership, association or as a juristic person if such partnership, association or juristic person practises within the scope of the profession in respect of which the practitioner is registered under the Act.
- (2) Where a patient is seen -
  - (a) by both a medical or a dental specialist and a general medical practitioner or a general dentist practicing as specified in subregulation (1), they shall charge the fees applicable to either the general medical practitioner or the general dentist and not those applicable to a medical or a dental specialist;
  - (b) by a medical or a dental specialist only, the fees applicable to that specialist may be charged.
- (3) The provisions in subrule (1) shall be limited in that -
  - (a) medical specialists who practise in one of the prescribed related specialities in medical pathology, shall be excluded from the concession to form an incorporated practice in terms of section 54A, or to form a partnership or association with a general practitioner or a specialist in medicine, or another practitioner registered under the Act, who does not practise in one of the related specialities in medical pathology;
  - (b) medical specialists who practise in diagnostic radiology, shall be excluded from the concession to form an incorporated practice in terms of section 54A, or to form a partnership or association with a general practitioner or a specialist in medicine, or another practitioner registered under the Act, who does not practise in the speciality diagnostic radiology;
  - (c) the only exception to the restriction pertaining to diagnostic radiology referred to in paragraph (b) hereof shall be that a diagnostic radiologist be permitted to form an incorporated practice, partnership or association with a nuclear physician in view of the fact that the said two medical specialities are related to each other in terms of the nature of their field of professional practice.

## Covering

Rule 8. A practitioner shall only -

- (a) employ as a professional assistant or *locum tenens* or in any other professional capacity a person who holds registration under the Act, whose name currently appears on any register kept by the registrar under section 18, and who is not suspended from the practising of his or her profession;
- (b) in any way help or support a person registered under the Act, the Pharmacy Act, 1974, the Nursing Act, 1978, the Social Work Act, 1978, or the Dental Technicians Act, 1979, if the professional practice or conduct of such a person is legal and within the scope of his or her profession.

## Supersession

Rule 9. No practitioner shall supersede or take over a patient from another practitioner if he or she is aware that the patient is under treatment of another practitioner, unless he or she takes reasonable steps, as a matter of courtesy, to inform the practitioner who was originally in charge of the case that he or she had taken over the patient at that patient's request and to establish from

the original practitioner what treatment the patient previously received, especially what medication, if any, had been prescribed to that patient and, in such a case, the original practitioner shall be obliged to provide the required information.

### **Impeding a patient**

Rule 10. A practitioner shall not impede a patient, or someone acting on behalf of a patient, from obtaining the opinion of another practitioner or from being treated by another practitioner.

### **Professional reputation of colleagues**

Rule 11. A practitioner shall not cast reflection on the probity or professional reputation or skill of another person registered under the Act, unless such action is justified.

### **Professional confidentiality**

Rule 12. A practitioner shall only divulge verbally or in writing any information regarding a patient which he or she ought to divulge in terms of a statutory provision or at the instruction of a court of law or where justified in the public interest: Provided that any other information shall only be divulged with the express consent of the patient or, in the case of a minor under the age of 14 years, with the written consent of his or her parent or guardian or, in the case of a deceased patient, with the written consent of his or her next-of-kin or the executor of his or her estate.

### **Retention of human organs**

Rule 13. A practitioner shall only for research, educational, training or statutory prescribed purposes retain the organs of a deceased person during an autopsy with the express written consent of the patient given by him or her during his or her lifetime or, in the case of a minor under the age of 14 years, with the written consent of his or her parent or guardian or, in the case of a deceased patient who had not previously given such written consent, with the written consent of his or her next-of-kin or the executor of his or her estate.

### **Signing of official documents**

Rule 14. Any student, intern or practitioner who, in the execution of his or her professional duties, signs official documents relating to patient care such as prescriptions, certificates, patient records, hospital or other reports, shall do so by signing such document next to his or her initials and surname in block letters.

### **Certificates and reports**

Rule 15. (1) A practitioner shall only grant a certificate of illness if such certificate contains the following information, namely -

- (a) the name, address and qualification of the practitioner;
- (b) the name of the patient;
- (c) the employment number of the patient (if applicable);
- (d) the date and time of the examination;

- (e) whether the certificate is being issued as a result of personal observations by the practitioner 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, disorder or malady in layman's terminology with the informed consent of the patient: Provided that if the patient is not prepared to give such consent, the medical practitioner or dentist shall merely specify that, in his or her opinion based on an examination of the patient, the patient is unfit to work;
  - (g) whether the patient is totally indisposed for duty or whether the patient is able to perform less strenuous duties in the work situation;
  - (h) the exact period of recommended sick leave;
  - (i) the date of issuing the certificate of illness; and
  - (j) a clear indication of the identity of the practitioner who issued the certificate which shall be personally and originally signed by him or her next to his or her initials and surname in printed or block letters.
- (2) If preprinted stationery is used, a practitioner shall delete words which are irrelevant.
- (3) A practitioner shall issue a brief factual report to a patient where such a patient, requires information concerning himself or herself.

### **Issuing of prescriptions**

Rule 16. A practitioner -

- (a) shall be permitted to issue typewritten, computer-generated, pre-typed, pre-printed or standardised prescriptions for medicine scheduled in schedules I, II, III and IV of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), subject thereto that such prescriptions may only be issued under his or her personal and original signature;
- (b) shall issue handwritten prescriptions for medicine scheduled in schedules V and above of the Act referred to in paragraph (a) under his or her personal and original signature (see also rule 14).

### **Professional appointments**

Rule 17. A practitioner shall only accept any professional appointment in accordance with a written contract of appointment that is available to the board on request, and which is drawn up on a basis which is in the interests of the public and the profession.

### **Secret remedies**

Rule 18. A practitioner shall in the conduct of his or her practice, only use -

- (a) a form of treatment, apparatus or technical process which is not secret and is not claimed to be secret;

- (b) an apparatus which proves upon investigation to be capable of fulfilling the claims made in regard to it.

### **Consulting rooms**

Rule 19. A practitioner shall only share consulting or waiting rooms with a person who is registered under the Act and shall not have an entrance through, or a nameplate at the entrance of a person's consulting or waiting rooms or business who is not so registered.

### **Statutory duties of council or the board**

Rule 20. (1) A practitioner shall not perform an act which prevents, or is calculated to prevent, the council, the board, any office-bearer thereof or the registrar from carrying out any duty granted by or imposed on the council, that board, office-bearer or the registrar under the Act.

(2) A practitioner shall not communicate with a person whom he or she knows or should reasonably know to be a witness for the *pro forma* complainant at a professional conduct inquiry to be held into the conduct of the practitioner concerned, on any aspect of the evidence to be given by such a witness at that inquiry, or permitting, sanctioning or acquiescing in such communication on his or her behalf.

### **Performance of professional acts**

Rule 21. (1) A practitioner shall only perform, except in an emergency, a professional act for which he or she is adequately qualified and sufficiently experienced.

(2) A practitioner shall only perform, except in an emergency, a professional act under proper conditions and in appropriate surroundings.

### **Exploitation**

Rule 22. A practitioner shall not permit himself or herself to be exploited in a manner which is detrimental to the public or professional interest.

### **Medicines**

Rule 23. (1) A practitioner, subject to the provisions of section 52 –

- (a) shall not participate in the manufacture for commercial purposes, or in the sale, advertising or promotion of any medicine as defined in the Medicines and Related Substances Control Act, 1965, or in any other activity which amounts to trading in medicines;
- (b) shall not engage in or advocate the preferential use or prescription of any medicine, if any valuable consideration is derived from such preferential use or prescription: Provided that -

- (i) the provisions of this paragraph shall not prohibit a practitioner from owning shares in a listed public company, manufacturing or marketing medicines or, subject to the provisions of the Pharmacy Act, 1974, from being the owner or part owner of a pharmacy or, whilst employed by a pharmaceutical concern in any particular capacity, from performing such duties as are normally in accordance with such employment;
- (ii) a practitioner concerned shall display a conspicuous notice in his or her waiting room and also, if appropriate, verbally inform his or her patient about the fact that he or she owns shares in the listed public company which manufactures or markets the medicine prescribed to that patient or that he or she is the owner or part owner of the pharmacy dispensing such medication or that he or she is in the employ of the pharmaceutical concern which manufactures that medication.

(2) A practitioner shall prescribe or supply any substance listed in schedule V, VI or VII of the Medicines and Related Substances Control Act, 1965, only if he or she has ascertained through a personal examination of the patient, or by virtue of a report by another practitioner under whose treatment the specific patient is or has been, and provided that he or she is satisfied that such prescription or supply is necessary for the treatment of the patient, except in the case of a repeat prescription for or the supply of such a substance in respect of a patient with a chronic illness.

### **Financial interest in hospitals**

Rule 24. (1) A practitioner who has a financial interest in a private clinic or hospital, shall only refer a patient to such a clinic or hospital while displaying a conspicuous notice in his or her waiting room indicating that he or she has a financial interest in such a clinic or hospital and provided that he or she has, if appropriate, also verbally informed his or her patient about such interest in a private clinic or hospital to which the patient is referred: Provided that such a practitioner –

- (a) shall not participate in the advertising or promotion of any private clinic or hospital, or in any other activity which amounts to such advertising or promotion for personal gain;
- (b) shall not engage in or advocate the preferential use of any private clinic or hospital, if any valuable consideration is derived from such preferential use. Further provided that –
  - (i) the provisions of this paragraph shall not prohibit a practitioner from owning shares in a listed public company, possessing or marketing private clinics or hospitals;
  - (ii) a practitioner concerned shall display a conspicuous notice in his or her waiting room and also, if appropriate, verbally inform his or her patient about the fact that he or she owns shares in the listed public company which manages the private clinic or hospital to which the patient was referred or that he or she is the owner or part owner of that private clinic or hospital or that he or she is in the employ of that private clinic or hospital concerned or the public company which owns that private clinic or hospital

(2) A practitioner shall admit a patient to such a private clinic or hospital if he or she has ascertained through a personal examination of the patient, or by virtue of a report by another practitioner under whose treatment the specific patient is or has been, and provided that he or she has informed the patient concerned that such admission in a private clinic or hospital was necessary for the treatment of the patient.

### **Specialists**

Rule 25. A medical or a dental specialist shall adhere to the regulations made under section 61(1)(f), relating to the conditions of practising as a specialist and published as Government Notice No. 590 of 29 June 2001.

### **Reporting of impairment**

Rule 26. A student, intern or practitioner shall -

- (a) report impairment in another student, intern or practitioner to the board if he or she is convinced that such a student, intern or practitioner is impaired as defined in the Act;
- (b) self report his or her own impairment or alleged impairment to the board if he or she is aware of his or her own impairment or has been publicly informed, or has been seriously advised by a colleague to act appropriately to obtain help in view of an alleged or established impairment.

### **Research, development and use of chemical, biological and nuclear capabilities of the State**

Rule 27. A practitioner who is or becomes involved in research, development and use of offensive or defensive chemical, biological and nuclear capabilities of the State, shall obtain prior permission from the board to conduct such research and to develop and use such capabilities and, for that purpose, the practitioner shall -

- (a) provide full particulars of the nature and scope of the envisaged research, development and use;
- (b) specify whether the clinical trials pertaining to such research have been passed by a professionally recognised research ethics committee;
- (c) specify that such research, development and use shall be permissible within the provisions of the World Medical Association's Declaration on Chemical and Biological Weapons; and
- (d) specify that such research, development or use is permitted in terms of the provisions of applicable international treaties or conventions to which South Africa is a signatory.

### **Rules applicable to a medical scientist**

Rule 28. A medical scientist shall also adhere to the rules of conduct set out in the Annexure hereto.

**Repeal**

Government Notices Nos. R.2278 of 3 December 1976, as amended by Government Notice Nos. R.884 of 27 May 1977, R.395 of 27 February 1987 and R.2543 of 13 November 1987 are hereby repealed.

**MINISTER OF HEALTH**

**DATE**

**ANNEXURE****MEDICAL AND DENTAL PROFESSIONS BOARD****CONDUCT PERTAINING SPECIFICALLY TO THE MEDICAL SCIENCES**

The following conduct shall apply to a biomedical engineer, a clinical biochemist, a genetic counsellor, a medical biological scientist, a medical physicist and an intern in each of these professions, as the case may be.

**Performance of professional acts by a biomedical engineer, a clinical biochemist, a genetic counsellor, a medical biological scientist, a medical physicist.**

1. A biomedical engineer, a clinical biochemist, a genetic counsellor, a medical biological scientist and a medical physicist shall only perform professional acts at the request of and in consultation with a medical practitioner or dentist and shall perform professional acts directly related to the treatment or diagnosis of a patient, in close cooperation with the medical practitioner or dentist concerned with the diagnosis or treatment of such a patient.

**Performance of professional acts by interns in biomedical engineering, clinical biochemistry, genetic counselling, medical biological science or medical physics**

2. An intern in biomedical engineering, clinical biochemistry, genetic counselling, medical biological science or medical physics shall only perform professional acts under the supervision of a practitioner registered as prescribed in his or her profession and shall limit such acts to acts directly related to his or her education and training in his or her discipline of study.



## Ethical guidelines for good practice in medicine, dentistry and the medical sciences

The Medical and Dental Professions Board of the Health Professions Council of South Africa has embarked on a project to bring together ethical and professional guidelines for doctors (medical practitioners), dentists, and medical scientists. The following Booklets are separately available:

- Booklet 1:** *General ethical guidelines for doctors, dentists and medical scientists*
- Booklet 2:** *General ethical guidelines for health researchers*
- Booklet 3:** *Ethical and professional rules of the Medical and Dental Professions Board*
- Booklet 4:** *Professional self-development*
- Booklet 5:** *Guidelines for making professional services known*
- Booklet 6:** *Guidelines for the management of health care waste*
- Booklet 7:** *Policy statement on perverse incentives*
- Booklet 8:** *Guidelines for the management of patients with HIV infection or AIDS*
- Booklet 9:** *Guidelines on research and clinical trials involving human subjects*
- Booklet 10:** *Research, development and use of the chemical, biological and nuclear capabilities of the State*
- Booklet 11:** *Guidelines on keeping of patient records*
- Booklet 12:** *Canvassing of patients abroad*
- Booklet 13:** *National Patients' Rights Charter*
- Booklet 14:** *Confidentiality: Protecting and providing information*
- Booklet 15:** *Seeking patients' consent: The ethical considerations*