

BOARD NOTICE 109 OF 2008**RULES RELATING TO ACTS OR OMISSIONS IN RESPECT OF WHICH THE
COUNCIL MAY TAKE DISCIPLINARY STEPS**

In terms of section 41(1) and section 49(4) of the Pharmacy Act, 1974 (Act 53 of 1974), as amended, the South African Pharmacy Council hereby declares its intention to request the Minister of Health to repeal the current set of Rules relating to acts or omissions in respect of which the Council may take disciplinary steps and publish a new set of Rules relating to acts or omissions in respect of which the Council may take disciplinary steps as set out in the Schedule hereto.

Interested persons are invited to submit written comments or representations on the proposed sets of Rules to the Registrar, P O Box 40040, Arcadia, 0007, for the attention of Manager: Pharmacy Practice, or vincent@pharmcouncil.co.za, within two months of the date of publication of this Notice.

SCHEDULE**RULES RELATING TO ACTS OR OMISSIONS IN RESPECT OF WHICH THE
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1. In these rules "the Act" shall mean the Pharmacy Act 53 of 1974, as amended, and any expression to which a meaning has been assigned in the Act shall bear such meaning.



**TA MASANGO
REGISTRAR**



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The South African Pharmacy Council holds the view that a person registered with the Council should at all times endeavour to act in the interest of promoting public health. The pharmacist should maintain and enhance the honour and dignity of pharmacy and refrain from any activity which may discredit his/her profession.

The under-mentioned acts or omissions shall be deemed to be unethical or unprofessional conduct, subject to disciplinary steps by the Council under Chapter V of the Pharmacy Act 53 of 1974: Provided that the said acts or omissions cannot be and are not intended to be a complete list of offences which may be punishable under the Council's disciplinary powers, since the Council is empowered by Chapter V of the Pharmacy Act 53 of 1974, as amended, to enquire into any matter which is brought to the attention of the Council or any complaint, charge or allegation of improper or disgraceful conduct against any person registered in terms of the Act.

The under-mentioned acts or omissions must also be read with the Code of Conduct. Not all the statements in the Code of Conduct will be applicable to every pharmacist. Every pharmacist must, however, be aware of them and adhere to those pertaining to their sphere of pharmacy practice:

DISPENSING PRACTICES

1. Failure in the interest of the patient to furnish information and counsel the patient or caregiver on the safe and effective use of medicine supplied by him/her.
2. Omitting a medicine or ingredient of a medicine in a prescription without first obtaining the approval of the prescriber, unless the patient requests the omission of a medicine in a prescription: Provided that such omission shall be indicated indelibly on the prescription and the copy of the prescription: Provided further that the patient be advised of the implications of the omission of a medicine in a prescription as requested by him or her.
3. Failure, by a person dispensing a prescription, to sign in person on the prescription that it was dispensed by him/her.
4. Failure to exercise proper and/or reasonable care in respect of and control over –
 - (a) the acquisition, storage, manufacture, dispensing, sale, supply or disposal of medicines, or of raw materials for the manufacture of medicines, for human or veterinary use;
 - (b) chemical and hazardous substances;
 - (c) access of the public to scheduled substances;
 - (d) the hygiene, cleanliness and neatness of a pharmacy;



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- (e) the professional appearance of a pharmacy, which failure may result in the dignity of the profession being harmed or potentially harmed.
- 5. Failure to exercise close supervision of professional activities that are performed by a non-pharmacist.
- 6. Assisting any member of a medical scheme or any other person to obtain any unjust benefit by participating in any activity either to the benefit of the member, or to the benefit of any person to the detriment of another person or medical scheme.
- 7. Acquiring or purchasing medicine listed in Schedule 1-6 of the Medicines Act from a person who is not registered in terms of the Pharmacy Act 53 of 1974, as amended: Provided that a manufacturing pharmacy may purchase scheduled substances for the purpose of the manufacturing of medicines.

ADVERTISING AND TOUTING

- 8. (1) The advertising of medicine or of his/her professional services in a manner-
 - (a) that is not factually correct;
 - (b) that is misleading;
 - (c) that harms the dignity or honour of the profession.
- (2) The advertising of medicine in a manner-
 - (a) that disparages another product, medicine or scheduled substance;
 - (b) that is aimed at, or may be interpreted or regarded as having as its aim, the promotion of the misuse or abuse or the detrimental or injudicious or unsafe use of medicines.
- (3) The advertising of his/her professional services in a manner -
 - (a) that disparages another pharmacist;
 - (b) that is calculated to suggest that his/her professional skills or ability or his/her facilities for practising his/her profession or rendering his/her professional services are superior to those of other pharmacists.
- 9. Touting or attempting to tout for prescriptions or business with regard to the sale of medicines.



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**RELATIONSHIP WITH COLLEAGUES AND OTHER HEALTH CARE
PROFESSIONALS**

10. Failure, in the interest of the patient, to co-operate with colleagues or members of other health care professions.
11. Criticism given in an unprofessional manner regarding the ability or professional competence of colleagues or members of other health care professions.
12. Disclosure of confidential information obtained in the course of his/her professional activities – except with the express written consent of the patient or, in the case of a minor, with the written consent of the parent or guardian, or where such information must be furnished to a person authorised by law to request it – unless such disclosure, in the pharmacist's judgement, is in the interest of the patient.

GENERAL

13. Failure to strive through continuing education and training to maintain a high standard of professional skills and knowledge and, in their application, to ensure the highest standards of competence are maintained.
14. Conducting his/her practice or himself/herself in such a manner that the dignity or the honour of the profession is harmed.
15. Collusion with any person who is not permitted in terms of the Regulations relating to Ownership and Licensing of Pharmacies to own a pharmacy to perform acts specially pertaining to the profession of a pharmacist.
16. Employment in a pharmacy which he/she owns or manages or which is in his/her charge or which belongs to the body corporate of which he/she is the responsible pharmacist, as the case may be, of a person whose name has been removed from the register of pharmacists/register of pharmacy support personnel or who has been suspended from performing any acts pertaining to the profession of pharmacy.
17. Failure as the approved pharmacist responsible for the practical training of a pharmacist intern or a pharmacist's assistant, to -
 - (a) carry out his/her duties;
 - (b) attend in good time to the administrative duties attached to the registration of the pharmacist intern or the pharmacist's assistant;
 - (c) maintain his/her registration as a pharmacist for the period of practical training of the pharmacist intern or pharmacist's assistant.
18. Any act or omission which prevents or hinders or is calculated to prevent or hinder the Council or the Registrar or any office bearer of the Council from carrying out its or his/her statutory duties.



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19. Failing to observe the provisions of any Act, rule or regulation applying to pharmacists, or allowing a person under his/her supervision and control to contravene such provisions, or inciting, instigating, ordering or encouraging any person to contravene such provisions.
20. In any manner whatsoever bringing the Council or a member of the Council in his/her capacity as a member into disrepute.
21. Adopting and using a trading title, brand name or logo, for a pharmacy without the prior written approval of the Council.
22. Use by a pharmacy as its trading title, brand name or logo, or as a part of such title of the name of any other company, firm or business or any words indicating or suggesting that the pharmacy is associated with, belongs to or is in any way connected with such other company, firm or business, unless such other company, firm or business is recorded with the Council as the owner or part owner of the pharmacy: Provided that the foregoing shall not prohibit the use by any pharmacy of any name, title or description under which such pharmacy carried on business immediately prior to 23 May 1975.
23. The performance, except in an emergency, by a pharmacist of professional acts for which he/she is inadequately trained or insufficiently experienced, and/or under improper conditions and/or in improper surroundings.
24. The sale or promotion of the sale of medicines in any manner that has as its aim or may be interpreted or regarded as having as its aim, the promotion of the misuse or the detrimental or injudicious or unsafe use of medicines.
25. Acceptance of any professional appointment unless the contract of appointment is in writing, is available to the Council on request and is not drawn up on a basis contrary to the interest of the public or the profession.
26. Communicating with any person whom a pharmacist knows or should reasonably know to be a witness in a formal or informal disciplinary inquiry to be held into the conduct of the pharmacist concerned on any aspect of evidence to be given by such witness at the inquiry, or permitting, sanctioning or agreeing to such communication on his/her behalf.
27. Permitting himself/herself to be exploited in a manner detrimental to the public or professional interest.