

HEALTH PROFESSIONS ACT, 1974

HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA

REGULATIONS RELATING TO THE CONDUCT OF INQUIRIES INTO ALLEGED UNPROFESSIONAL CONDUCT UNDER THE HEALTH PROFESSIONS ACT, 1974

The Minister of Health has, in terms of section 61(1)(h), read with section 61(4), of the Health Professions Act, 1974 (Act No. 56 of 1974), and after consultation with the Health Professions Council of South Africa, made the regulations in the Schedule.

SCHEDULE

Definitions

1. 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 that meaning, and, unless the context otherwise indicates —

"**appeal committee**" means an *ad hoc* committee established by the council in terms of section 10(2) of the Act to deal with appeal matters from a professional conduct committee;

"**appellant**" means a registered person or the *pro forma* complainant who is aggrieved by a decision and/or penalty of a professional conduct committee and who appeals to the appeal committee;

"**complainant**" means any natural or juristic person, group or professional body, including a professional association or society, a teaching or training institution, or any health care or related facility, that lodges a complaint against a registered person about alleged unprofessional conduct;

"**complaint**" means any information in writing regarding alleged unprofessional conduct by a person registered under the Act that comes to the attention of the registrar or the council or a

professional board or an ombudsman, or a complaint, charge or allegation of unprofessional conduct against such person;

"inquiry" means an inquiry held by a professional board or a professional conduct committee of the professional board under Chapter IV of the Act and these regulations to inquire into a complaint or charge against a registered person;

"legal assessor" means a person versed in law, with at least five years' experience in the legal field, appointed by the registrar to advise the professional conduct committee on any matter of law and procedure;

"minor transgression" means conduct which, in the opinion of the registrar or preliminary committee of inquiry, on the basis of the documents submitted to the registrar or such committee, is unprofessional, but of a minor nature, and does not warrant the holding of a formal professional conduct inquiry;

"ombudsman" means a person appointed by the council to mediate in the case of minor transgressions referred to him or her by the registrar for mediation;

"performance assessment" means an assessment conducted by a performance assessment committee to inquire into and make a determination on the clinical or related performance of a practitioner against whom a professional conduct committee found evidence of poor clinical or related performance, or of a pattern of such performance, at an inquiry;

"performance assessment committee" means an *ad hoc* committee established by a professional board in terms of section 15(5)(f) of the Act to inquire into and make a determination on the clinical or related performance of a practitioner against whom a professional conduct committee found evidence of poor clinical or related performance, or of a pattern of such performance, at an inquiry;

"poor performance" means negligence and conduct on the part of a practitioner which falls short of the required standards or generally acceptable norms in health care and which is found to be due to a lack of clinical or related skills or adequate knowledge of the management of patients or a particular health condition;

"preliminary committee of inquiry" means a committee established by a professional board in terms of section 15(5)(f) of the Act for the preliminary investigation of complaints to make a determination thereon;

"preliminary inquiry" means an inquiry held in terms of these regulations by a preliminary committee of inquiry to consider a complaint against a person registered in the register of the professional board concerned in order to make a determination on the appropriate manner of dealing with such a complaint;

"professional conduct committee" means a committee established by a professional board in terms of section 15(5)(f) of the Act to conduct an inquiry;

"pro forma complainant" means a person appointed by the registrar to represent the complainant and to present the complaint to a professional conduct committee;

"respondent" means a person registered under the Act whose conduct is the subject of a complaint or an inquiry under Chapter IV of the Act and these regulations, or a person opposing an appeal in terms of these regulations.

Lodging of complaints

2. (1) A complaint must be lodged in writing and be addressed to the registrar, the council or a professional board.

(2) When a complaint is addressed to the council or a professional board, it must be submitted to the registrar.

(3) The registrar must —

- (a) peruse and analyse all complaints received;
- (b) categorise them according to their significance and seriousness;
- (c) record each complaint against the name of the respondent concerned as it appears in the register kept in terms of section 18 of the Act; and
- (d) refer complaints of minor transgressions and matters not falling under the jurisdiction of the council to the ombudsman for mediation or referral to the relevant authorities, respectively.

Mediation by ombudsman

3. (1) The ombudsman must —

- (a) mediate in the case of minor transgressions referred to him or her for mediation in terms of regulation 2(3)(d) with a view to resolving such matters;
- (b) refer cases that could not be resolved through mediation to the registrar for preliminary investigation; and
- (c) refer matters not falling under the jurisdiction of the council to appropriate bodies or tribunals and inform the complainant of such referral.

(2) The ombudsman may, after receiving a complaint for mediation, call for further information in any manner he or she deems appropriate from any person who, in his or her opinion, may assist in the mediation to resolve the matter.

(3) The ombudsman must, after receiving the information referred to in subregulation (2), consider the matter and mediate between the parties with a view to making a determination to resolve the matter between the parties, advise the parties of his or her determination on the matter and require them to indicate whether or not they will abide by the determination.

(4) If the parties agree to abide by the determination, the ombudsman must confirm the determination in writing and the determination will then be binding on both parties as a final resolution of the matter.

(5) If either party does not agree to abide by the determination, the matter must be referred to the registrar for preliminary investigation.

(6) The information obtained by the ombudsman in terms of subregulation (2) is confidential and privileged and, if a matter is referred for preliminary investigation in terms of subregulation (5), such information may not be considered by the preliminary committee of inquiry.

Preliminary inquiry**4. (1) The registrar —**

- (a) may, after receiving a complaint, call for further information or an affidavit confirming the allegations by the complainant;
- (b) must, subject to paragraph (a), after receiving a complaint, register the complaint and notify the respondent of the complaint by forwarding a copy of the complaint, together with copies of any further information or affidavits referred to in paragraph (a), to him or her —
 - (i) requesting a written response from him or her within 40 working days from the date of receipt of the notification by the respondent, or within such further period as the registrar may reasonably allow, failing which the complaint, together with any further information or affidavit referred to in paragraph (a), must be submitted to the preliminary committee of inquiry without the respondent's written response;
 - (ii) advising him or her that failure to respond to the notification or the complaint as contemplated in subparagraph (i) will constitute contempt of council, and that a response may consist of a written communication by the respondent that he or she invokes his or her right to remain silent; and
 - (iii) warning him or her that the written response referred to in subparagraph (i) may be used as or in evidence against him or her.

Provided that a notification referred to in this paragraph will be deemed to have been received —

- (aa) on the day such notification is hand-delivered to the registered address of the respondent; or
- (bb) if such notification is sent by registered post, on the seventh day following the date on which it was so posted;

- (c) may refer the complaint directly to the preliminary committee of inquiry or the chairperson of such committee for instructions on the information required to complete a full investigation of the matter;
- (d) may direct that an investigation in terms of section 41A of the Act be conducted.

(2) On receipt by the registrar of the further information and written response referred to in subregulation (1)(a) and (b), he or she must submit the complaint, such further information and the written response to the preliminary committee of inquiry, and if no further information or written response is received, the registrar must record this fact and report it to the preliminary committee of inquiry.

(3) The preliminary committee of inquiry may, after due consideration of the matter referred to it in terms of subregulation (2), direct the registrar to issue a notice in writing to the respondent, to be delivered in the manner contemplated in the proviso to subregulation (1)(b), instructing him or her to appear in person with his or her legal representative, if any, before the preliminary committee of inquiry at its next meeting to inquire why he or she did not respond to the council correspondence and to give his or her response to the complaint or exercise his or her right to remain silent.

(4) If the preliminary committee of inquiry decides, after due consideration of the explanation by the respondent for his or her failure to respond to the council correspondence, that the respondent is in contempt of council, it must—

- (a) make a finding of guilty of contempt of council and impose one or more of the penalties provided for in section 42(1)(a) and (d) of the Act;
- (b) order the respondent to submit, within such period as may be determined by the committee, his or her written response to the complaint or a written communication to indicate his or her exercising his or her right to remain silent; and
- (c) direct the registrar to confirm its decision in writing to the respondent stating the reason(s) for the decision.

(5) If the respondent fails to attend the meeting of the preliminary committee of inquiry after having been duly notified in writing to appear before the committee, the committee may—

- (a) make a finding of guilty of contempt of council and impose one or more of the penalties provided for in section 42(1)(a) and (d) of the Act;
- (b) order the respondent to submit, within such period as may be determined by the committee, his or her written response to the complaint or a written communication to indicate his or her exercising his or her right to remain silent; and
- (c) direct the registrar to confirm its decision in writing to the respondent stating the reason(s) for the decision.

(6) The finding made and the penalty imposed by the preliminary committee of inquiry in terms of subregulation (4) or (5) is of immediate force and effect, but may be set aside by the High Court if the respondent appeals to the Court in terms of section 20 of the Act.

(7) If a preliminary committee of inquiry decides, after due consideration of the complaint, any further information which may have been obtained in terms of subregulation (1)(a) and the respondent's explanation of the subject matter of the complaint, that there are no grounds for taking further action on the matter, it must note and accept the respondent's explanation and give its reasons for so noting and accepting that explanation and direct the registrar to communicate its decision in writing to the complainant and the respondent stating the reason(s) for the decision.

(8) If a preliminary committee of inquiry decides, after due consideration of the complaint, any further information which may have been obtained in terms of subregulation (1)(a) and the respondent's explanation of the subject matter of the complaint or the lack of such explanation, that there are grounds for a professional conduct inquiry into the conduct of the respondent, it must direct that an inquiry be held and that the registrar communicate its decision in writing to the complainant and the respondent and arrange for the holding of such inquiry, or it may allow the respondent to pay an admission of guilt fine in terms of section 42(8) and (9) of the Act.

(9) If a preliminary committee of inquiry decides, after due consideration of the complaint, any further information which may have been obtained in terms of subregulation (1)(a) and the respondent's explanation of the subject matter of the complaint, that the respondent acted unprofessionally, but the conduct in question is found to constitute only a minor transgression, it

must determine, as a suitable penalty to be imposed, one or more of the penalties provided for in section 42(1)(a) and (d) of the Act and direct the registrar to formulate the charges in writing and communicate the charges and its decision to the respondent, stipulating that the penalty must be accepted or rejected within 14 days from date of receipt of the communication: Provided that if the penalty—

- (a) is accepted by the respondent, proof of compliance with such penalty must accompany the notice of acceptance to the registrar, and that penalty must be regarded as a penalty imposed by the preliminary committee of inquiry, whereupon the matter will be regarded as finalized; or
- (b) is rejected by the respondent or no response is received by the due date, the registrar must arrange for an inquiry into the professional conduct of the respondent, and the charges so formulated and the penalty so rejected or not responded to may no longer be applied to the matter.

Arranging an inquiry

5. (1) After receipt of a directive referred to in regulation 4(8) or a notice of rejection of the penalty or if no response is received by the due date as contemplated in regulation 4(9)(b), the registrar must issue a notice, essentially in the form of Annexure A to these regulations, addressed to the respondent, stating the date and time when and the place where the inquiry will be held and enclosing a charge sheet as formulated by the *pro forma* complainant.

(2) The notice and the charge sheet referred to in subregulation (1) must be served on the respondent by hand or by registered post at his or her registered address, at least 60 days prior to the date of the inquiry, and a copy of the notice and charge sheet must be served or posted to the respondent's legal representative, if appointed at the time of service or posting to the respondent.

Constitution of the professional conduct committee

6. (1) The chairperson of the professional board must, at the request of the registrar, appoint a professional conduct committee at least seven days before the inquiry.

(2) The professional conduct committee must be composed of at least—

- (a) two public representatives, one of whom must be the chairperson;
- (b) two persons registered in the profession in which the respondent is registered, at least one of whom registered in the same discipline as the respondent;
- (c) one member of the board; and
- (d) one legal assessor.

(3) A person who served as a member of the preliminary committee of inquiry that referred a matter for inquiry may not be appointed to the professional conduct committee dealing with that same matter.

Request for further particulars

7. (1) A request by the respondent or his or her legal representative for further particulars about the charges as formulated by the *pro forma* complainant must be received by the *pro forma* complainant at least 30 days before the date of the inquiry.

(2) The *pro forma* complainant must furnish his or her written reply to a request for further particulars referred to in subregulation (1) to the respondent or his or her legal representative within 14 days from date of receipt of the request.

(3) The *pro forma* complainant need not respond to any request for further particulars received less than 30 days before the inquiry

Pre-inquiry conference

8. (1) In order to determine the issues in dispute, the *pro forma* complainant must arrange a pre-inquiry conference, which must be attended by both parties or their legal representatives, if any, on any date at least seven days before the date of the inquiry at a mutually convenient time and venue, at which conference—

- (a) the respondent or his or her legal representative must indicate the exceptions, objections (including an objection to the jurisdiction of a professional conduct committee to inquire into the matter) or points *in limine* he or she intends to raise;

- (b) the respondent or his or her legal representative must indicate how he or she intends to plead to the charge or charges;
 - (c) copies of all documents, reports, notes, X-rays or any other exhibits which a party intends to use at the inquiry must be furnished to the other party;
 - (d) perusal of the originals of the documents, reports, notes, X-rays or other exhibits referred to in paragraph (c) is allowed;
 - (e) admissions may be made by both parties with regard to allegations or exhibits;
 - (f) a summary of the opinion of an expert witness that a party intends to call at the inquiry must be furnished to the other party; and
 - (g) any other matter concerning the inquiry must be resolved.
- (2) Minutes of the pre-inquiry conference must be kept and signed by both parties or their legal representatives for submission to the professional conduct committee at the hearing.
- (3) The professional conduct committee may order a party who failed to attend the pre-inquiry conference to attend such a conference and to pay the costs the registrar may determine in respect of the day so wasted because the hearing could not proceed.

Procedure at inquiry

9. (1) The chairperson of the professional conduct committee must ask the respondent or his or her legal representative, if the respondent is represented, to plead to the charge, which plea must be recorded.

(2) If the respondent, or his or her legal representative, refuses or fails to plead directly to the charge(s), the chairperson of the professional conduct committee must record this and enter a plea of not guilty.

(3) If the respondent pleads guilty to the charge(s), the professional conduct committee must ask the respondent or his or her legal representative such questions as are necessary to determine whether all the elements of the charge(s) are admitted.

(4) If the professional conduct committee is satisfied that all the elements of the charge(s) are admitted, the *pro forma* complainant must address the professional conduct committee and indicate whether the plea of guilty is accepted.

(5) If the plea of guilty is accepted, the chairperson of the professional conduct committee must make a finding of guilty and allow the parties to address the committee in accordance with subregulation (22).

(6) If the respondent pleads not guilty or if a plea of not guilty is entered in terms of subregulation (2) or if a plea of guilty is not accepted by the *pro forma* complainant, the chairperson must allow the *pro forma* complainant to address the professional conduct committee, lead evidence in support of his or her case, re-examine witnesses after cross-examination by the respondent or his or her legal representative and thereafter close his or her case.

(7) The respondent or his or her legal representative may apply for his or her discharge after the *pro forma* complainant has closed his or her case.

(8) The chairperson of the professional conduct committee must give the *pro forma* complainant the opportunity to reply to the application for a discharge by the respondent or his or her legal representative.

(9) The professional conduct committee must then consider the application *in camera* and thereafter give its decision to the parties.

(10) If the application for a discharge is dismissed, the respondent or his or her legal representative may address the professional conduct committee and lead evidence in support of his or her case, re-examine witnesses after cross-examination by the *pro forma* complainant and thereafter close his or her case.

(11) The professional conduct committee may, on application, allow any of the parties to lead further evidence or to recall a witness after their cases have been closed, and the other party must be given the opportunity to cross-examine such witness.

(12) The chairperson and the other members of the professional conduct committee may ask a witness questions for the sake of clarity on issues arising from such witness's evidence.

(13) The chairperson of the professional conduct committee must allow further cross-examination and re-examination of a witness on matters arising from the questions by the chairperson and other members of the professional conduct committee.

(14) After all the evidence has been adduced, the *pro forma* complainant and the respondent or his or her legal representative may address the professional conduct committee on the evidence and the legal position.

(15) The *pro forma* complainant may reply to any matter of law raised by the respondent or his or her legal representative in his or her address and may, with leave of the professional conduct committee, reply to any matter raised by the respondent or his or her legal representative in his or her address.

(16) If the respondent is not present at the inquiry after having been duly notified, the inquiry may proceed in his or her absence after the chairperson of the professional conduct committee has entered a plea of not guilty on behalf of the respondent, unless the respondent has pleaded guilty in writing: Provided that the professional conduct committee may consider the postponement of the inquiry if the respondent's absence is due to *bona fide* reasons.

(17) All oral evidence must be taken under oath or on affirmation administered by the chairperson of the professional conduct committee.

(18) Evidence on affidavit is admissible: Provided that the opposing party may require the deponent of such affidavit to be present for purposes of cross-examination.

(19) (a) The record, or any portion thereof, of a lawfully constituted court, inquest court or disciplinary tribunal from any jurisdiction is acceptable as *prima facie* evidence if it has been certified to be a true copy by that court or disciplinary tribunal.

(b) If it is practicable and appears just to the professional conduct committee, it may, on application by either party and for the purpose of cross-examination, order the attendance of a witness whose evidence appears in a record of a court or disciplinary tribunal and which is presented as *prima facie* evidence.

(20) At the conclusion of the hearing, the professional conduct committee must deliberate *in camera* and then inform the parties of its findings within such period as may be determined by the committee.

(21) The findings of the professional conduct committee may include a finding of poor performance on the part of the respondent, in which case the committee must require the *pro forma* complainant and the respondent or his or her legal representative to address the committee on the appropriateness of the full or partial referral of the matter to a performance assessment committee to inquire into the performance of the respondent and make a determination on the appropriate management thereof.

- (22) (a) If the respondent is found guilty of unprofessional conduct, the *pro forma* complainant must address the committee and furnish details of previous convictions of the respondent on unprofessional conduct under the Act, if any.
- (b) The *pro forma* complainant may also address the professional conduct committee on a suitable penalty and lead evidence in support of imposing such penalty.
- (c) The respondent or his or her legal representative may thereafter address the professional conduct committee on the personal circumstances of the respondent and a suitable penalty to be imposed and lead evidence in support of such penalty and in mitigation of the penalty recommended by the *pro forma* complainant, whereafter the *pro forma* complainant may reply in aggravation of the penalty.
- (d) The professional conduct committee must deliberate *in camera* on the appropriate penalty to be imposed, whereafter the chairperson must inform the parties of the penalty decided on.
- (e) The finding made and penalty imposed by the professional conduct committee shall be of force and effect from the date determined by the committee.

(23) If the professional conduct committee finds that the evidence before it points to poor performance on the part of the respondent, it may, in addition to imposing a penalty where the evidence also points to unprofessional conduct, impose practice restrictions and refer the matter,

with its findings on poor performance on the part of the respondent, to a performance assessment committee to inquire into the performance of the respondent and make a determination on the appropriate management thereof and direct the registrar to arrange the performance assessment within such period as may be determined by the professional conduct committee.

Arrangement of a performance assessment

10. (1) On receipt of a directive referred to in regulation 9(23), the registrar must in consultation with the chairperson of the professional board concerned, within 30 days from date of the finding by a professional conduct committee, appoint a performance assessment committee composed of three registered practitioners from the same discipline as the respondent and issue a notice, which must essentially be in the form of Annexure C to these regulations, addressed to the respondent stating the date and time when and the place where the assessment will be held and the areas of poor performance identified by the professional conduct committee to be assessed by the performance assessment committee.

(2) The notice referred to in subregulation (1) must be served on the respondent by hand or posted to him or her at his or her registered address by a registered post at least 21 working days prior to the date set for the performance assessment.

(3) The performance assessment committee must determine the manner of conducting the assessment of the areas of poor performance identified by the professional conduct committee and its duration, and communicate this to the respondent together with the notice referred to in subregulation (1).

(4) At the conclusion of the assessment the committee must make a determination on the appropriate management of the respondent's poor performance and give directives to be adhered to by the respondent to improve on his or her performance within such period as may be determined by the committee, and require the respondent to submit such reports as may be determined by the committee to make a final determination on the performance of the respondent.

(5) The respondent must adhere to the directives given by the performance assessment committee, failing which the committee may direct the registrar to suspend the respondent from practising his or her profession until such time as he or she has fully complied with the directives.

(6) When the respondent has complied with the directives and the performance assessment committee has received the required reports referred to in subregulation (4), the committee must consider the reports to ascertain if the respondent has acquired the required skills to enable him or her to perform optimally in practising his or her profession.

(7) If the performance assessment committee, on the grounds of the reports submitted, is satisfied that the respondent has acquired the required skills to practise his or her profession with reasonable skill, it may lift the practice restrictions imposed by the professional conduct committee in terms of regulation 9(23) and finalize the matter.

(8) If the performance assessment committee, on the grounds of the reports submitted, is not satisfied that the respondent has acquired the required skills to practise his or her profession, the committee must determine the skills the respondent requires to be able to practise his or her profession with reasonable skill.

Appeal

11. (1) The respondent or the *pro forma* complainant may appeal to the appeal committee against the findings or penalty of the professional conduct committee or both such finding and such penalty.

(2) The appellant must, within 21 days from the date of the decision of the professional conduct committee, submit to the registrar a written notice of his or her intention to appeal: Provided that a notice of intention to appeal submitted after 21 days may be considered by the appeal committee if it is accompanied by an application for indulgence stating the reasons for the delay, and the appeal committee must, on the date set down for the appeal, consider such application before the appeal on merits.

(3) The registrar must provide the appellant with a copy of the transcript of the proceedings of the inquiry within 60 days from the date on which the registrar received the written notice of intention to appeal referred to in subregulation (2): Provided the appellant pays the reasonable costs of making such a copy of the transcript.

(4) The appellant must deliver six copies of his or her papers, setting out the grounds of appeal and containing a summary of arguments, by hand or registered post to the registrar and

one copy to the other party within 30 days from the date on which he or she received the copy of the transcript referred to in subregulation (3).

(5) The other party must deliver six copies of his or her reply to the appellant's papers referred to in subregulation (4), containing his or her summary of arguments, by hand or registered post to the registrar and one copy to the appellant within 30 days from the date on which the appellant delivered his or her papers to the registrar.

(6) If either party fails to submit the copies referred to in subregulations (4) and (5) within the prescribed period, that party may be allowed to submit such copies: Provided that such copies are accompanied by an application for indulgence for late submission, which must be considered by the appeal committee, before the appeal on the merits, on the date set down for the appeal hearing.

(7) The appellant must, within 14 days from the date on which the other party submitted his or her reply, deliver six copies of his or her reply to that of the other party to the registrar and one copy to the other party.

(8) If no reply is submitted by the appellant within the period referred to in subregulation (7), the registrar must advise both parties in writing that no reply was submitted by the appellant in terms of subregulation (7) and of the date on which the matter will be heard by the appeal committee.

(9) The appeal committee must consider the appeal on the papers referred to in subregulations (4), (5), (6) and (7), allow representations and arguments from both parties or their legal representatives, deliberate on the matter *in camera* and thereafter advise the parties of its findings, which must be confirmed by the registrar in writing.

(10) Each party is responsible for his or her own costs occasioned by the preparation for and finalization of the appeal.

(11) The decision of the appeal committee will be of force and effect from the date determined by the committee and may be set aside by a High Court if approached in terms of section 20 of the Act.

Continuation of inquiry

12. (1) If a member of the professional conduct committee is unable to serve at any time after a plea has been entered, the inquiry must proceed, provided that at least four of the original members are available to continue with the inquiry.

(2) If the chairperson is unable to serve at any time after a plea has been entered, the inquiry may proceed with the remaining public representative as the new chairperson.

Accessibility of an inquiry

13. (1) The proceedings at an inquiry are open to the public.

(2) Notwithstanding subregulation (1)—

(a) the professional conduct committee may take any decision in respect of any point arising in connection with, or in the course of, an inquiry *in camera*;

(b) the professional conduct committee may hear any evidence adduced during an inquiry may, on good cause shown or at the discretion of the committee, *in camera*; and

(c) the professional conduct committee may, on good cause shown, order that no person may at any time and in any manner publish any information which is likely to reveal the identity of any particular person other than the respondent.

(3) Any person who contravenes or fails to comply with an order made in terms of subregulation (2)(c) is guilty of an offence and liable on conviction in a court of law to a fine not exceeding R5 000 or imprisonment not exceeding six months or both such a fine and imprisonment.

(4) The council must keep recordings of all inquiries and a copy of the transcription of such a recording must, on written request and on payment of the actual cost of making such a copy, be made available to the complainant, the respondent or any other party who, in the opinion of the registrar, has a substantial interest in the matter.

Publication in the Gazette

14. The registrar must, after finalizing the matter in terms of these regulations, publish in the *Gazette* the name of the respondent, the charge(s) on which he or she has been found guilty and the penalty that has been imposed.


Subpoena

15. A summons for attendance as a witness before a professional conduct committee to give oral evidence or to produce any book, record, document or thing must substantially be in the form set out in Annexure B to these regulations.

Repeal

16. (1) The regulations published under Government Notice No. R.765 of 24 August 2001 are hereby repealed.

(2) An inquiry or appeal in terms of the regulations referred to in subregulation (1) pending before a professional conduct committee of a professional board or a disciplinary committee of council, respectively, immediately prior to the commencement of these regulations must be conducted and finalized under the procedures prescribed by those regulations as if they have not been repealed.



MINISTER OF HEALTH

DATE: 06/01/2009

ANNEXURE A

NOTICE TO APPEAR BEFORE A PROFESSIONAL CONDUCT COMMITTEE OF THE
PROFESSIONAL BOARD FOR

You,

(name of person and his or her address)

are hereby given notice that an inquiry into your professional conduct will be held by the
professional conduct committee of the Professional Board for

..... at

.....(place)

on (date) at (time).

The charge sheet as formulated by the *pro forma* complainant is enclosed.

You may be legally represented at the inquiry. You are advised to make timeous arrangements for such representation. If you and/or your legal representative fail to attend the inquiry on the stipulated date, the inquiry may proceed in your absence.

Given under my hand, this

day of 20.....

.....
REGISTRAR

ANNEXURE B

**SUBPOENA TO APPEAR BEFORE A PROFESSIONAL CONDUCT COMMITTEE OF THE
PROFESSIONAL BOARD FOR**

You,

(name of person summoned and his or her address)

are hereby summoned to appear at(place) on

..... (date) at (time) before the professional conduct

committee of the Professional Board for

established in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), to give evidence in
respect of.....

.....

.....

.....

(if the person subpoenaed is to produce any book, record, document or thing, add:)

and you are hereby directed to produce:

.....

.....

(specify the book, record, document or thing concerned)

Given under my hand, this..... day of

.....20.....

.....

REGISTRAR

ANNEXURE C**NOTICE TO APPEAR BEFORE A PERFORMANCE ASSESSMENT COMMITTEE OF THE
PROFESSIONAL BOARD FOR**

You,

(name of person and his or her address)

are hereby given notice that a performance assessment of your professional performance will be
conducted by the performance assessment committee of the Professional Board for

..... at

.....(place)

on (date) at (time).

The following professional skills, or such other skills as may be identified by the committee during
your performance assessment, will be assessed:

.....
.....
.....
.....
.....

Given under my hand, this

day of 20.....

.....
REGISTRAR