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# GOVERNMENT NOTICE

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## DEPARTMENT OF HEALTH

No. R. 767

1 October 2014

### NURSING ACT, 2005 (Act No. 33 of 2005)

#### REGULATIONS SETTING OUT THE ACTS OR OMISSIONS IN RESPECT OF WHICH THE COUNCIL MAY TAKE DISCIPLINARY STEPS

After consultation with the South African Nursing Council and in terms of section 58(1)(i) of the Nursing Act, 2005 (Act No. 33 of 2005), the Minister of Health has made the regulations in the Schedule.

#### SCHEDULE

##### CHAPTER 1

##### Definitions

1. In these regulations “**the Act**” means the Nursing Act, 2005 (Act No. 33 of 2005), and any word or expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context indicates otherwise—

“**advertisement**” means any visual or aural communication, representation, reference or notification of any kind which—

- (a) is intended to promote the use of any goods or services; or
- (b) appeals for or promotes the support of any cause

and advertising has a corresponding meaning;

“**touting**” means conduct which draws attention, either verbally or by means of the printed or electronic media, to one’s offers, guarantees or material benefits that do not fall in the category of professional services or items, but are linked to the rendering of a professional service or are designed to entice the public to the professional practice.

**CHAPTER 2**

2. The acts or omissions set out in this chapter are deemed to be acts or omissions in respect of which the Council can take disciplinary steps against a practitioner registered in terms of the Act.
3. Notwithstanding the provision in Regulation 2, the acts and omissions detailed hereunder shall not be or are not intended to be a complete list of offences which may be punishable.

**Practice**

4. Failure to carry out such acts in respect of the assessment, diagnosis, treatment, care, prescription, collaboration, referral, coordination and patient advocacy as the scope of practice permits.
5. Failure to maintain the health status of a healthcare user under his or her care through-
  - (a) assessing the health status of a healthcare user and the responses of the body;
  - (b) administering the correct and appropriate treatment and care;
  - (c) preventing accidents, injury or other trauma;
  - (d) preventing the spread of diseases and infections;
  - (e) checking all forms of diagnostic and therapeutic interventions for the healthcare users;
  - (f) providing specific care and treatment of the ill and the vulnerable and high risk healthcare users;
  - (g) monitoring vital parameters, including vital signs of the healthcare user; and
  - (h) keeping clear and accurate records of all actions performed on the healthcare user.
6. Failure to correctly identify a healthcare user.
7. Performance of professional acts in relation to a healthcare user which are beyond her/his scope of practice, except in cases of emergency.
8. Failure or refusal to provide emergency healthcare and treatment.

**Adverse Conduct**

9. Assault, abuse, or the harassment of healthcare users and colleagues whilst on duty.
10. Any conduct bringing the profession into disrepute.

**Advertising and Touting**

11. (1) Advertising of professional services in a manner that is—
  - (a) not factually correct;
  - (b) misleading;
  - (c) harmful to dignity or honour;
  - (d) 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 practitioners;
  - (e) aimed at promoting a specific practice or a specific practitioner's technique or treatment; or
  - (f) intended to make known a product, business, institution or organisation of any nature whatsoever for whatever purpose and in any way whatsoever.
- (2) Permitting one's name to be used in a professional capacity in connection with advertising.
- (3) Touting or canvassing for a healthcare user for him/herself or for any other person, either personally or through the mediation of an agent or in any manner whatsoever.

**Financial Interest**

12. (1) A practitioner may not—
  - (a) accept or insist on any commission or remuneration, financial or otherwise, from manufacturers of or dealers in medicines, remedies or any equipment, apparatus instrument, appliance or material which is used in the course of his/her practice or prescribed to patients;
  - (b) pay or give any person commission or remuneration, financial or otherwise, or offer any person anything for the recommendation of healthcare users;

- (c) accept any commission or remuneration, financial or otherwise, from any person for the referral of healthcare users;
- (d) share any fees collected for a service with any person other than a partner, unless such sharing is commensurate with the extent of such other person's participation in the rendering of such service;
- (e) overcharge healthcare users for professional services rendered;
- (f) over service healthcare users for financial gain; or
- (g) charge for services not rendered.

### **Professional Secrecy**

13. (1) Disclosure of information pertaining to a patient obtained in the course of his/her professional activities except-
- (a) with the express consent of the healthcare user;
  - (b) in the case of a minor, with the consent of the parent or guardian;
  - (c) in the case of a healthcare user who is deceased, with the consent of the surviving spouse or a child of the deceased who is of age;
  - (d) in the exclusive interest of a healthcare user who is not able to or is not capable of granting permission;
  - (e) in a professional consultation with any person involved in the treatment of the healthcare user; or
  - (f) where such information must be furnished to a person authorised by law to request such information.

### **Relationships with Other Colleagues and Health Professionals**

14. Impeding a healthcare user or a person properly acting on behalf of a healthcare user who desires to obtain the advice of or treatment by another person who is authorised by law to advise or treat persons concerning their health, to consult such person.
15. Practising or carrying on from his/her consulting rooms any business, trade, or work except with the prior written consent of the Council.
16. Sharing consulting rooms with any person, other than a person registered in terms of the Act, without prior written consent of the Council.

17. Entering into a partnership with any person other than a person registered in terms of the Act.
18. Supporting or assisting any person in illegal practices or actions in any manner whatsoever.
19. Employing any person who is not registered in terms of the Act to perform nursing acts.
20. Criticising, without justification, explicitly or by implication, the probity or professional reputation, skill, knowledge, service or qualification of any person registered under the Act or members of other health service professions.
21. Failing, in the interest of the patient, to cooperate with colleagues or other members of health service professions.
22. Conducting his/her practice or him/herself in such a manner that the dignity or the honour of the profession is harmed.

#### **Relations with the Council, its Members and Officials**

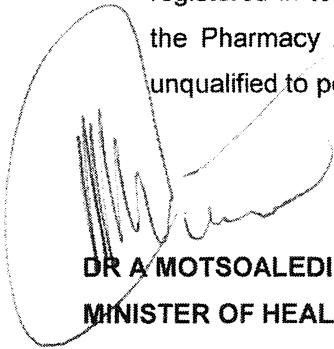
23. Any act or omission which prevents or hinders or is calculated to prevent or hinder the Council, a committee of the Council or the Registrar from carrying out its or his/her statutory duties.
24. In any manner whatsoever bringing the Council into disrepute.
25. Failing to observe the provisions of any Act, rule or regulation applying to persons registered under this Act 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.

**CHAPTER 3****Midwives**

26. The acts or omissions set out in this chapter are deemed to be further acts or omissions in respect of which the Council can take disciplinary steps against a practitioner registered in terms of Section 31(b).
27. Regulations 4 to 27 shall apply *mutatis mutandis* to a practitioner registered in terms of the Act as a Professional Nurse and Midwife.
28. Failure to carry out such acts in respect of the assessment, monitoring, diagnosis, treatment, care, prescription, collaboration, referral, coordination and healthcare user advocacy as the scope of practice permits.
29. Failure to protect the name, person and possessions of a mother and child under his/her care or charge during the course of pregnancy, labour and the puerperium through the-
- (a) correct identification of the mother and child;
  - (b) prevention of infection and the spread of infection;
  - (c) checking and monitoring of all forms of diagnostic and therapeutic interventions at reasonable intervals; and
  - (d) specific care and treatment of the vulnerable and/or high risk mother and child.
30. Failure to keep clear and accurate records of the progress of pregnancy, labour and the puerperium and all acts performed in connection with a mother and child.
31. Failure to comply with conditions under which he/she may carry on his/her profession as published in the Government Gazette.
32. Acting beyond the scope of practice in purporting to perform the acts of a person registered in terms of the Act, the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974) or the Pharmacy Act (Act No. 56 of 1974) for which acts the Professional Nurse or Midwife is unqualified to perform.

**CHAPTER 4****Auxiliary Midwives**

33. The acts or omissions set out in this chapter are deemed to be further acts or omissions in respect of which the Council can take disciplinary steps against a practitioner registered in terms of Section 31(1)(e).
34. Regulations 4 to 27 shall apply *mutatis mutandis* to a practitioner registered in terms of the Act as an Auxiliary Midwife.
35. Failure to identify the health needs and to promote the health of mother and child through such acts and procedures as the scope of his/her practice permits.
36. Failure to protect the name, person and possessions of a mother and child under his/her care or charge through the-
- (a) correct identification of the mother and child;
  - (b) prevention of infection and the spread of infection;
  - (c) carrying out of and the recording of all observations and interventions at reasonable intervals while the mother and child are in his/her care.
37. Failure to comply with conditions under which he/she may carry on his/her profession as published in the Government Gazette.
38. Acting beyond the scope of practice in purporting to perform the acts of a person registered in terms of the Act, the Health Professions Act, 1974 (Act No. 56 of 1974) or the Pharmacy Act, 1974 (Act No. 53 of 1974) for which acts the Auxiliary Midwife is unqualified to perform.



**DR A MOTSOLEDI, MP**  
**MINISTER OF HEALTH**