

(updated)
**REGULATIONS IN TERMS OF THE ASSOCIATED HEALTH SERVICE PROFESSIONS ACT,
1982**

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Government Notice No. R. 870 of 29 April 1983
Government Notice No. R. 1196 of 10 June 1983
Government Notice No. R. 1745 of 12 August 1983
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Government Notice No. R. 2712 of 14 December 1984
Government Notice No. R. 1083 of 17 May 1985
Government Notice No. R. 2394 of 21 November 1986
Government Notice No. R. 1622 of 31 July 1987
Government Notice No. R. 2366 of 23 October 1987
Government Notice No. R. 629 of 31 March 1988
Government Notice No. R. 2439 of 2 December 1988
Government Notice No. R. 2855 of 7 December 1990
Government Notice No. R. 3089 of 20 December 1991
Government Notice No. R. 2900 of 16 October 1992
Government Notice No. R. 203 of 4 February 1994
Government Notice No. R. 1700 of 25 October 1996

AND (repeal)

Chapters 1,2,3,4,5,6,7,9,10,12 and 15 repealed by Government Notice No. R. 127 of 12 February 2001

The Minister of Health and Welfare, in terms of section 38 of the Associated Health Service Professions Act, 1982 (Act No. 63 of 1982), and on the recommendation of the South African Associated Health Service Professions Board, has made the regulations contained in the Schedule hereto.

SCHEDULE

[NOTE: Chapters 1,2,3,4,5,6,7,9,10,12 and 15 was repealed by Government Notice No. R. 127 of 12 February 2001]

CHAPTER 8

THE INSTITUTION OF A DISCIPLINARY INQUIRY

The manner in which a complaint, charge or allegation shall be lodged against a practitioner or student

12. A complaint or charge or allegation of improper or disgraceful conduct against a practitioner or student shall be in writing, where possible in the form of an affidavit, addressed to the registrar by the person lodging it, and setting forth the conduct in question, and such complainant shall be prepared, if so requested, to give oral evidence in support of his complaint at a disciplinary inquiry before the board or a committee of the board.
13. The complaint, charge or allegation and any accompanying document shall be submitted to the chairman, who shall then direct the registrar -
 - (a) to call for further information from the complainant;

- (b) to forward to the accused copies of the documents received from the complainant or to inform the accused of the nature of such complaint or charge or allegation, calling upon him for a written explanation and warning him that such explanation may be used in evidence against him during a disciplinary inquiry which may allow; or
 - (c) to refer the matter to the board.
14. (1) On receipt of the replies called for under the preceding regulation, the registrar shall submit them to the chairman or, if no replies are received, the registrar shall report such fact to the chairman.
- (2) The chairman shall then make his recommendation on the matter, which, the registrar, together with all other documents concerning the case, shall refer to the board for consideration.
15. If the board, on the strength of the information submitted, resolves that the conduct forming the subject of the complaint or charge or allegation does not constitute improper or disgraceful conduct or conduct which when regard is had to the accused's profession(s) is improper or disgraceful, or for any other reason should not be subjected to any inquiry, it shall take such action as it may deem fit.
16. If the board resolves that the information submitted constituted *prima facie* evidence of improper or disgraceful conduct or conduct which when regard is had to the person's profession(s) is improper or disgraceful, it shall arrange for a disciplinary inquiry to be held.
17. (1) If it is resolved to institute a disciplinary inquiry -
- (a) the board, with due regard to the provisions of section 24(5), shall appoint a *pro forma* complainant to act at such inquiry: Provided that no member of the board shall be so appointed; and
 - (b) the chairman or registrar, on behalf of the board, shall issue a summons in the form of Annexure A hereto, addressed to the accused and informing him -
 - (i) of the date, time and venue of such inquiry;
 - (ii) of the particulars of the complaint or charge or allegation; and
 - (iii) that he may answer in writing to the complaint or charge or allegation set forth in the notice, but warning him at the same time that any such answer may be used in evidence against him.
- (2) The summons referred to in subregulation (1)(b) shall be served on the accused at his registered address or forwarded through the post to him at his registered address by registered letter.
- (3) A practitioner or student who has been duly summoned in terms of this regulation shall appear at the time and place specified in the summons, unless before the inquiry he has informed the registrar in writing, by means of a letter personally signed by him, that he pleads guilty to the complaint or charge or allegation against him.
- (4) A practitioner or student who has been duly summoned in terms of this regulation and who refuses or without cause acceptable to the inquiring body referred to in regulation 19(b)(i) fails to appear at the time and place specified in the summons, shall be guilty of a contravention of subregulation (3) read with section 38(4) and on conviction is liable to a fine not exceeding R100.

18. (1) A summons for attendance as a witness at a disciplinary inquiry, or for the production to it of any book, record, document or thing shall be substantially in the form of Annexure B hereto.
- (2) The fees payable to witnesses subpoenaed by the board, or a committee of the board, to give evidence at a disciplinary inquiry shall be in accordance with the tariff applicable to criminal cases in a magistrate's court.

PROCEDURE AT A DISCIPLINARY INQUIRY

19. Subject to the provisions of section 24 the procedure at a disciplinary inquiry shall be as follows:
- (a) (i) The inquiry is conducted by the board or a committee of the board in terms of powers delegated to such committee by the board (hereinafter referred to as "the inquiring body").
- (ii) If the summons referred to in regulation 17(1)(b) has been served on or forwarded to the accused as prescribed in regulation 17(2), the inquiring body may proceed with the disciplinary inquiry even if he is not present.
- (iii) If the accused is present, the chairman of the inquiring body (hereinafter referred to as "the presiding officer") shall read out such complaint or charge or allegation as may be contained in the summons addressed to the accused.
- (b) (i) The accused, if present, shall then be asked by the presiding officer to plead guilty or not guilty to the complaint or charge or allegation against him: Provided that, if the accused by a personally signed letter has notified the registrar before the hearing that he pleads guilty to the complaint or charge or allegation against him, such plea of guilty may be entered as a plea in his absence.
- (ii) If the accused refuses or fails to plead directly to such complaint or charge or allegation, or if the accused is absent and if a summons has been served on or forwarded to him as prescribed in regulation 17(2) and he has not notified the registrar in writing that he pleads guilty as aforesaid in regulation 19(b)(i), the presiding officer shall make a note of such fact and shall enter a plea of not guilty on behalf of the accused, and a plea so entered shall have the same result as if it had in fact been so pleaded.
- (iii) If the accused pleads guilty, it shall be for the inquiring body to decide whether or not it wishes to hear evidence regarding such complaint or charge or allegation.
- (c) (i) Where evidence pertaining to any complaint or charge or allegation requires to be adduced either because the accused has pleaded not guilty or because the inquiring body has decided that evidence should be adduced, the *pro forma* complainant shall be given the opportunity of stating his case and thereafter of leading evidence in support thereof.
- (ii) Upon conclusion of such evidence the *pro forma* complainant's case shall be closed.
- (d) (i) If the accused is present or is represented by an attorney or advocate, he or his legal representative shall be given the opportunity of stating his case and thereafter of leading evidence in support of it: Provided that the accused shall be allowed to present his defence in writing, should he so wish in which event such written exposition shall be read to the inquiring body.
- (ii) If the accused is neither present nor represented, any letter, statement, explanation or defence which he put forward as a result of a request in terms of regulation

- 13(b) or as a result of the summons issued in terms of regulation 17(1)(b), or both, shall be read to the inquiring body and shall be received as evidence.
- (iii) After the accused or his legal representative has led his evidence or his written exposition, statement, explanation or defence has been read instead, his case shall be closed.
- (e) If the inquiring body deems it advisable that further evidence be adduced in order to enable the inquiry body to arrive at a just decision, it may allow further evidence to be led by either the *pro forma* complainant or the accused or his legal representative or by both after their cases have been closed.
- (f) After all evidence has been given, the *pro forma* complainant shall be allowed to address the inquiring body on the evidence and the legal position, and this shall be allowed whether or not the accused has led evidence.
- (g) Thereafter the accused or his legal representative, if present, shall likewise be allowed to address the inquiring body.
- (h) If it sees fit, the inquiring body may allow the *pro forma* complainant to reply to questions of law which the accused or his legal representative has raised in his address.
20. (1) Members of the inquiring body may, with the consent of the presiding officer, during evidence or cross-examination put to the witnesses such questions as they think relevant.
- (2) (a) (i) Each witness who has been called by the *pro forma* complainant to testify is subject to cross-examination by the accused or his legal representative after he has given his evidence.
- (ii) Likewise the accused, if he prefers to give evidence, and any witness called by him or on his behalf to testify shall, after he has given his evidence, be subject to cross-examination by the *pro forma* complainant.
- (b) if accordance has been led, the person who led the evidence shall be entitled to re-examine the witness after cross-examination, but shall confine his re-examination to matters arising from cross-examination or from questions put by the presiding officer or the members of the inquiring body.
21. (1) [Note: subregulation (1) deleted in 1984]
- (2) If the accused is present and the complainant is not present but has filed an affidavit, the accused or his legal representative may answer to the affidavit so as to enable the inquiring body to deal with or to dispose of the matter as may be necessary.
22. (1) All oral evidence shall be taken on oath or affirmation and the inquiring body may decline to admit the evidence of any witness or deponent to a document who is not present for cross-examination or declines to submit thereto.
- (2) (a) The statement of a complainant who is not present in person, or of any witness in support of the complaint or charge or allegation who is not present in person, shall be in the form of an affidavit but the accused may object to such evidence if he is not given the opportunity of cross-examining the witness: Provided that where the information or complaint or charge or allegation has been based on records of a lawfully constituted court, such records shall be accepted as *prima*

facie evidence, provided they have certified to be a true copy or provided the acceptance thereof is agreed upon by both parties.

- (b) If it is practicable and appears just, the inquiring body may postpone the inquiry in order to subpoena, for the purposes of cross-examination, the witnesses whose evidence appears in the said records.
- 23.
- (1) Upon conclusion of the case the inquiring body shall deliberate thereon *in camera*.
 - (2) If the accused is found not guilty of the charge preferred against him, he shall be notified accordingly as soon as reasonably possible.
 - (3) If the inquiring body has determined, regarding any complaint or charge or allegation, that sufficient facts have been proved to its satisfaction to support such complaint or charge or allegation, it shall decide whether the conduct forming the subject of such complaint or charge or allegation so supported constitutes improper or disgraceful conduct, or conduct which when regard is had to the accused's profession is improper or disgraceful, and it shall announce its finding in this connection.
 - (4) After an announcement of a finding as aforesaid has been made or after the accused has pleaded guilty and the inquiring body has decided that no evidence is to be led, the *pro forma* complainant shall adduce evidence of previous convictions of the accused under the Act if any such convictions have previously been recorded against him: Provided that it shall be lawful for the *pro forma* complainant to adduce such evidence only if notice was given to the accused prior to the commencement of the hearing that, in the event of his being found guilty, such evidence would be adduced.
 - (5)
 - (a)
 - (i) Proof of previous convictions under the act shall be adduced by means of a certificate issued under the hand of the registrar.
 - (ii) Such certificate shall specify that complaint or charge or allegation brought against the accused and the time, the finding, the date thereof and the penalty imposed.
 - (b) The accused shall be entitled to challenge the correctness of such certificate, in which case a certified copy of the minutes of such previous inquiry shall be produced, or if such minutes has been destroyed, the relevant notice published in the *Government Gazette* in terms of section 24(2) shall be produced.
 - (6) The presiding officer shall then afford the *pro forma* complainant an opportunity of making representations regarding a suitable sentence to be imposed.
 - (7) The presiding officer shall then afford the accused's legal representative, if present, an opportunity of addressing the inquiring body in mitigation of the sentence to be imposed and of leading evidence in mitigation.
 - (8) Thereupon the inquiring body shall deliberate *in camera* upon the sentence to be imposed.
 - (9) Where a committee of the board finds an accused and the sentence imposed is -
 - (a) not subject to confirmation by the board in order to take, the committee shall report its findings to the board and cause the requirements of section 24(2) to be complied with;

- (b) subject to confirmation by the board in order to take, the committee shall submit all relevant documents together with the record of the evidence and its findings to the board for consideration and shall inform the accused that he may make written representations to the board regarding the exercise of its discretion concerning the confirmation of the imposition of such sentence.
- (10) the board shall not consider any representations regarding the exercise of its discretion concerning the confirmation of the imposition of the sentence, unless such representations are submitted by the accused or his legal representative, to the registrar, for presentation to the board, within 30 days after he has been informed that he may make such representations and any representations made within the 30 days period shall be considered by the board at its next meeting.

CHAPTER 11

THE ACTS SPECIALLY PERTAINING TO ANY SPECIFIC PROFESSION

Chiropractic

45. The following acts are acts specially pertaining to the profession of a chiropractor:
- (a) The physical examination of any person, with or without the taking, reading and interpreting of X-ray plates, for the purpose of diagnosing any physical defect, illness or deficiency in such person.
 - (b) The treatment or prevention of any physical defect, illness or deficiency related to spinal, pelvic, spinovisceral and general neuromusculoskeletal conditions in any person by -
 - (i) manipulation or adjustment;
 - (ii) electrotherapy;
 - (iii) exercise therapy;
 - (iv) hydrotherapy;
 - (v) traction therapy;
 - (vi) thermal therapy;
 - (vii) vibration therapy;
 - (viii) immobilization therapy;
 - (ix) neuro-muscular reflex therapy;
 - (x) massage therapy;
 - (xi) acupuncture or acupressure therapy; or
 - (xii) remedies, dietary advice or dietary supplementation.

Herbalism

46. The following acts are acts specially pertaining to the profession of a herbalist:
- (a) The physical examination of any person for the purpose of diagnosing any physical defect, illness or deficiency in such person.
 - (b) The treatment or prevention of any physical defect, illness or deficiency in any person by-
 - (i) remedies solely derived from plants or parts of plants; or
 - (ii) vitamins, minerals, dietary supplementation.

Homeopathy

47. The following acts are acts specially pertaining to the profession of a homeopath:

- (a) The physical examination of any person, taking into account the totality of symptoms and the modalities and peculiarities thereof, for the purpose of diagnosing any physical defect, illness or deficiency in such person.
- (b) The treatment or prevention of any physical defect, illness or deficiency in any person by remedies, dietary advice or dietary supplementation in accordance with and based on homeopathic principles.

Naturopathy

48. The following acts are acts specially pertaining to the profession of a naturopath:
- (a) The physical examination of any person for the purpose of diagnosing any physical defect, illness or deficiency in such person.
 - (b) The treatment or prevention of any physical defect, illness or deficiency in any person by-
 - (i) light therapy;
 - (ii) hydrotherapy;
 - (iii) thermal therapy;
 - (iv) acupuncture or acupressure therapy;
 - (v) electrotherapy;
 - (vi) massage therapy;
 - (vii) exercise therapy;
 - (viii) vibration therapy;
 - (ix) reflex therapy; or
 - (x) remedies, dietary advice or dietary supplementation.

Osteopathy

49. The following acts are acts specially pertaining to the profession of an osteopath:
- (a) The physical examination of any person for the purpose of diagnosing any physical defect, illness or deficiency in such person.
 - (b) The treatment or prevention of any physical defect, illness or deficiency directly related to spinal, pelvic, spinovisceral and general neuro-musculoskeletal conditions in any person by-
 - (i) manipulation;
 - (ii) electrotherapy;
 - (iii) exercise therapy;
 - (iv) thermal therapy;
 - (v) vibration therapy;
 - (vi) massage therapy;
 - (vii) reflex therapy; or
 - (viii) remedies, dietary advice or dietary supplementation.

CHAPTER 13 EXEMPTION FROM THE PROVISION OF ANY REGULATION MADE UNDER SECTION 38(1)(I)

54. (1) The board may, subject to the provisions of subregulation (2), grant exemption from the provisions of regulation 50, 51, 52 or 53 to a practitioner referred to in section 38(1)(m) in regard to the possession, preparation, supply or prescription of, or the control over a remedy or substance not mentioned in the regulation concerned.

- (2) The board shall not grant such exemption unless it has satisfied itself in regard to -
 - (a) the reason for and the necessity of the use of the remedy or substance concerned in the practicing of his profession by the practitioner applying for exemption;
 - (b) such practitioner’s knowledge of such remedy or substance as well as his training and experience in respect of the use and effect of such remedy or substance; and
 - (c) reasonable proof that on 9 May 1980 it was competent by law for such practitioner to make use of such remedy or substance in the practicing of this profession.

**CHAPTER 14
REGULATIONS RELATING TO THE QUALIFICATIONS ENTITLING
CHIROPRACTORS AND HOMEOPATHS TO REGISTRATION**

Chiropractors

55. The Master’s Degree in Technology: Chiropractic issued by the Department of Education shall in terms of section 16B(1) of the Act entitle any holder thereof to registration as a chiropractor under the Act, on condition that any such holder was registered with the council as a student for the entire period during which he or she was a student for the said degree or for any other qualification in chiropractic which is a prerequisite or obtaining the said degree.

Homeopaths

56. The Master’s Degree in Technology: Homeopathy issued by the Department of Education shall in terms of section 16B(1) of the Act entitle any holder thereof to registration as a homeopath under the Act, on condition that any such holder was registered with the council as a student for the entire period during which he or she was a student for the said degree or for any other qualification in homeopathy which s a prerequisite for obtaining the said degree.

**ANNEXURE A
FORM OF SUMMONS TO AN ACCUSED PERSON**

SUMMONS

To

.....

.....

.....

You are hereby summoned to appear before the South African Associated Health Service Professions Board, or a committee of the Board, at (place) on the day of 19..... at(time), when a hearing will be held to inquire into the following complaint/charge/allegation* which has been lodged against you:

.....

.....

.....

.....

.....

In terms of section 24(6) of Act 63 of 1982 you are entitled, either personally or through your legal representative, to answer the complaint/charge/allegation* at the inquiry and be heard in your defence. You are also entitled to call witnesses in your defence but must yourself secure their presence at the inquiry.

If without any acceptable reason you fail to appear at the hearing, you will be guilty of contravention of regulation 17(3) of the attached regulations read with section 38(4) of Act 63 of 1982 and will be liable, on conviction, to a fine not exceeding R100.

Should you desire your letter dated (or any further written communication you may wish to make) to constitute your explanation or defence, please notify me to that effect as soon as possible and not later than You are hereby warned that any such communication may be used in evidence against you.

You are obliged to appear at the hearing. This obligation falls away only if, before the date of the hearing, you plead guilty to the complaint/charge/allegation* in a letter signed by you personal and addressed to the registrar.

Given under the hand of the of the board this day of 19.....

.....
Chairman/Registrar*

*Delete what does not apply

**ANNEXURE B
FORM OF SUBPOENA TO APPEAR BEFORE THE SOUTH AFRICAN ASSOCIATED
HEALTH SERVICE PROFESSIONSBOARD OR A COMMITTEE OF THE BOARD**

To

(name of person summoned and his address)

You are hereby summoned to appear before the South African Associated Health Service Professions Board, or a committee of the Board, established in terms of the Associated Health Service Professions Act, 1982 (Act 63 of 1982), at ... (place) on the day of 19..... at(time), to give evidence regarding and you are required to bring with you

(specify the book, document, record or thing)

In the absence of sufficient cause, failure to comply with this subpoena constitutes an offence, punishable on conviction with a fine not exceeding R100.

Given under the hand of the of the board this day of 19.....

.....
Chairman/Registrar*

*Delete what does not apply