

DEPARTMENT OF HEALTH

NO. 861

25 AUGUST 2017

HEALTH PROFESSIONS ACT, 1974

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

The Minister of Health hereby intends, in terms of section 61(1)(h) and (6) of the Health Professions Act, 1974 (Act No. 56 of 1974), and after consultation with the Health Professions Council of South Africa, to make the Regulations in the Schedule.

Any person wishing to comment on or to make representation with regard to the proposed amendments to the Regulations, is hereby invited to do so within three (3) months of the date of publication of this notice to the Director-General: Health, Private Bag X828, Pretoria, 0001 (for the attention of the Director: Public Entities Governance), within three months from date of publication of this notice. Comments received after the closing date may not be considered.



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DR. AARON MOTSOALEDI

MINISTER OF HEALTH

DATE: 21/7/2017

## SCHEDULE

### Definition

1. In this Schedule "**the Regulations**" means the Regulations relating to the Conduct of Inquiries into Alleged Unprofessional Conduct made under the Health Professions Act, 1974 (Act No. 56 of 1974), and published under Government Notice No. R. 102 6 February 2009.

### Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is hereby amended by the insertion, in its correct alphabetical order, of the following definition:

"**address**" means postal address, residential address, business address, fax number or electronic mail address;"

### Amendment of regulation 2 of the Regulations

3. Regulation 2 of the Regulations is hereby amended by the substitution for subregulation (3) of the following subregulation:

- "(3) The registrar must—
- (a) peruse and analyse all complaints received;
  - (b) categorise complaints 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;
  - (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; and
  - (e) refer a complaint of poor performance to a performance assessment committee."

### Amendment of regulation 4 of the Regulations

4. Regulation 4 of the Regulations is hereby amended by the substitution in subregulation (1)(b)(iii), for item (aa) of the following item:

"(aa) on the day such notification is hand-delivered, faxed, e-mailed, or otherwise

electronically transmitted to the respondent's address as it appears in the register; or"

**Amendment of regulation 6 of the Regulations**

5. Regulation 6 of the Regulations is hereby amended by—

(a) the substitution for sub regulation (1) of the following sub regulation:

"(1) The registrar must appoint the members of the professional conduct committee at least seven days before the inquiry."

**Substitution of regulation 10 of the Regulations**

6. The following regulation is hereby substituted for regulation 10 of the regulations:

**"10. Arrangement of performance assessment**

"(1) On receipt of the complaint of poor performance or a directive referred to in regulation 9(23), the registrar must, within 30 days from date of receipt of the complaint of poor performance, or within 30 days from date of the finding by a professional conduct committee, appoint the members of the performance assessment committee.

(2) The performance assessment committee referred to in subregulation (1) must be composed of three registered practitioners from the same discipline as the respondent.

(3) The registrar must issue a notice, which must essentially be in the form of Annexure C to these regulations, addressed to the respondent stating-

- (a) the date and time when and the place where the assessment will be held; and
- (b) the areas of poor performance identified by the complainant or professional conduct committee to be assessed by the performance assessment committee;
- (c) the manner in which the assessment is to be conducted;
- (d) the duration of the assessment; and
- (e) any practice restrictions imposed by the professional conduct committee or the performance assessment committee.

(4) The notice referred to in subregulation (3) must be served on the respondent's address by hand, fax, electronic-mail, 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.

(5) The performance assessment committee—

- (a) must determine the manner in which the assessment of the areas of poor performance identified by the professional conduct committee or contained in the complaint, is to be conducted;
- (b) must determine the duration of the assessment; and
- (c) may impose practice restrictions on the respondent.

(6) At the conclusion of the assessment the performance assessment 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 performance assessment committee, and require the respondent to submit such reports as may be determined by the performance assessment committee to make a final determination on the performance of the respondent.

(7) The respondent must adhere to the directives given by the performance assessment committee, failing which the performance assessment 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.

(8) When the respondent has complied with the directives and the performance assessment committee has received the required reports referred to in subregulation (6), the performance assessment 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.

(9) 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) or it may lift the practice restrictions imposed by it in terms of subregulation(5)(c), and finalise the matter.

(10) 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 performance assessment committee must determine the skills the respondent requires to be able to practise his or her profession with reasonable skill.”

**Short title**

7. These regulations shall be called the Regulations relating to the Conduct of Inquiries into Alleged Unprofessional Conduct: Amendment.