

DEPARTMENT OF HEALTH

NO. R. 3102


3 March 2023

HEALTH PROFESSIONS ACT, 1974 (ACT NO.56 OF 1974)

REGULATIONS RELATING TO FINES WHICH MAY BE IMPOSED BY A COMMITTEE OF ENQUIRY AGAINST PRACTITIONERS FOUND GUILTY OF IMPROPER OR DISGRACEFUL CONDUCT UNDER THE HEALTH PROFESSIONS ACT, 1974

The Minister of Health intends, in terms of section 61(1) (j) read with section 42(8) of the Health Professions Act, 1974 (Act No. 56 of 1974), to make the regulations in the Schedule.

Interested persons are invited to submit any substantiated comments or representations on the proposed regulations to the Director-General of Health, Private Bag X828, Pretoria, 0001 (for attention of the Director: Public Entities Governance, mihloti.mushwana@health.gov.za and paul.tsebe@health.gov.za), within three months of the date of publication of this Notice.



DR M.J. PHAAHLA, MP

MINISTER OF HEALTH

DATE: 06/02/2023

SCHEDULE

DEFINITIONS

1. In these regulations any word or expression to which has been assigned in the Act shall have that meaning, unless the context indicates otherwise:-

“preliminary committee of inquiry” means the preliminary committee of inquiry referred to in the regulations relating to the conduct of inquiries made in terms of section 61(1)(h) of the Act;

“professional conduct committee” means the professional conduct committee referred to in the regulations relating to the conduct of inquiries;

“regulations relating to the conduct of inquiries” means the regulations relating to the conduct of inquiries into alleged unprofessional conduct under the Health Professions Act, 1974 as published under *Government Notice No. R. 102 in Government Gazette No. 31859* of 06 February 2009; and

“Act” means the Health Professions Act, 1974 (Act No. 56 of 1974).

Fines which may be imposed by a preliminary committee of enquiry and a professional conduct committee

2. A preliminary committee of inquiry and a professional conduct committee may impose a fine equal to or falling within the range of the minimum and maximum fines stipulated for each category of unprofessional conduct indicated below against a registered person who has been found guilty of unprofessional conduct under Chapter IV of the Act.

Category of improper or disgraceful conduct – (1) Improper or disgraceful conduct relating to:	Minimum fine	Maximum fine
(a) advertising	R5 000.00	R20 000.00
(b) communication	R6 000.00	R30 000.00
(c) supersession	R2 000.00	R16 000.00
(d) itinerant practice	R5 000.00	R20 000.00
(e) certificates and reports	R4 000.00	R20 000.00
(f) reputation of colleagues	R2 000.00	R16 000.00
(g) fees and commission	R10 000.00	R16 000.00
(2) Overcharging patients in fees	R10 000.00	R30 000.00

Category of improper or disgraceful conduct – (1) Improper or disgraceful conduct relating to:	Minimum fine	Maximum fine
(3) contravention of rule 21 of the rules	R10 000.00	R30 000.00
(4) Practicing out of scope of practice	R10 000.00	R30 000.00
(5) practicing beyond the scope of own Profession	R10 000.00	R30 000.00
(6) employing an unregistered person	R10 000.00	R30 000.00
(7) Withholding emergency healthcare service	R10 000.00	R30 000.00
(8) Overservicing	R40 000.00	Amount claimed for over-servicing + 5% of such amount or R40 000.00 whichever is greater
(9) Exposing a patient to danger or harm	R10 000.00	R40 000.00
(10) Providing insufficient care to a patient	R10 000.00	R30 000.00
(11) Providing treatment to a patient without the patient's or next-of-kin's informed consent	R4 000.00	R20 000.00
(12) Sharing consulting rooms with a person not registered in terms of the Act	R10 000.00	R30 000.00
(13) Allowance by a practitioner to be Exploited	R10 000.00	R20 000.00
(14) Incompetence	R20 000.00	R100 000.00
(15) Negligence	R40 000.00	R140 000.00
(16) Fraud	R40 000.00	R140 000.00
(17) Giving or receiving perverse incentive or kickback	R40 000.00	Amount of incentive or kickback + 5% of such amount or

Category of improper or disgraceful conduct – (1) Improper or disgraceful conduct relating to:	Minimum fine	Maximum fine
		R40 000.00 whichever is greater
(18) Unprofessional conduct emanating from criminal conviction	R20 000.00	R100 000.00
(19) Issuing of improper prescription	R10 000.00	R40 000.00
(20) Engaging in unacceptable relationship	R40 000.00	R100 000.00
(21) contravention of rule 23 of the rules	R10 000.00	R30 000.00
(22) Engaging in undesirable business practices or models	R20 000.00	R60 000.00
(23) Divulging confidential information about a patient	R20 000.00	R60 000.00
(24) Defeating the ends of justice	R5 000.00	R20 000.00
(25) Defeating or obstructing the Health Professions Council or the professional board in the performance of its duties	R5 000.00	R20 000.00
(26) Any other form of unprofessional conduct that is considered by the committee to be minor but that is not prescribed in these regulations	R5 000.00	R20 000.00

Fines which may be imposed by a professional conduct committee

3. A professional conduct committee may impose, against a registered person who has been found guilty of unprofessional conduct under Chapter IV of the Act, a fine equal to or falling within the range of the minimum and maximum fines stipulated for each category of unprofessional conduct indicated in the table below if such unprofessional conduct resulted in the death of the patient.

(1) Incompetence	R20 000.00	R100 000.00
(2) Negligence	R40 000.00	R140 000.00
(3) Withholding emergency healthcare service	R10 000.00	R30 000.00
(4) unprofessional conduct emanating from criminal conviction	R20 000.00	R100 000.00

Repeal

4. The regulations relating to fines which may be imposed by a committee of enquiry against practitioners found guilty of improper or disgraceful conduct under the Health Professions Act, 1974 as published under *Government Notice* No. R. 632 in *Government Gazette* No. 33385 of 23 July 2010 are hereby repealed.

Short title

5. These Regulations are called Regulations Relating to Fines Which May Be Imposed by a Committee of Enquiry Against Practitioners Found Guilty of Improper or Disgraceful Conduct Under the Health Professions Act, 1974, 2023.