

DEPARTMENT OF HEALTH

NO. 3489

2 June 2023

NURSING ACT, 2005 (ACT NO. 33 OF 2005)

REGULATIONS RELATING THE CONDITIONS UNDER WHICH A REGISTERED
PERSON MAY PRACTISE AS A PRIVATE PRACTITIONER

The Minister of Health, after consultation with the South African Nursing Council intends to make regulations in the Schedule, in terms of section 58 (1)(j) of the Nursing Act, 2005 (Act No. 33 of 2005).

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 the attention of the Director: Public Entities and Relations Management, mihloti.mushwana@health.gov.za), and paul.tsebe@health.gov.za within three (3) months of the date of publication of this Notice.



DR MJ PHAAHLA, MP
MINISTER OF HEALTH

DATE 01/05/2023

SCHEDULE

Definitions

In this Schedule **“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 bears such meaning, and, unless the context indicates otherwise—

“additional qualification” means a post graduate nursing qualification that is approved by and registered with the Council;

“itinerant practice” means a practice which a private practitioner conducts on a regular basis at a location other than his or her resident practice address;

“operate” means being in control of a private health care facility or rendering nursing services for his or her own account, either in solus practice or in a partnership, or as an associate in an association with another practitioner, or as a director of the private practice established in terms of the applicable legislation;

“practising” means the active pursuance or engagement in nursing by a practitioner;

“private practice” means the provisioning of nursing or related services in a setting in which the practitioner is not professionally accountable to another registered nurse or midwife, or a board of a private health care facility, or a public health institution, or a person registered as a doctor, dentist or specialist with the Health Professions Council or a person registered with the Pharmacy Council;

“private practitioner” means a registered nurse or midwife who is in control of a private health care facility or who is rendering nursing services for his or her own account, either in solus practice or in a partnership, or as an associate in an association with another practitioner, or as a director of the private practice established in terms of the applicable legislation;

“**resident practice**” means a place at or from where a registered private practitioner conducts his or her practice, on a daily basis; and

“**stationery**” means any pre-printed document for official use (especially sick notes and scripts) and includes any electronic communication.

Conditions for licensing private practitioner

2. (1) No registered person may practise nursing as a private practitioner without being licensed by the Council to do so in terms of section 4(2)(i) of the Act.
- (2) A registered person desiring to be licensed to practise as a private practitioner must—
 - (a) submit a duly completed application form, obtainable from the Council;
 - (b) pay the required licensing fee as provided in the Regulations regarding Fees and Fines payable to the South African Nursing Council, published in GN R170, GG 36231 of 8 March 2013;
 - (c) be registered with the Council in terms of section 31(1)(a) or (b);
 - (d) have an additional qualification of at least 1 (one) year duration in a specific discipline or field of nursing in which he or she intends to conduct a private practice;
 - (e) have the relevant additional dispensing licence, authorisation, permit or certificate, in compliance with the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965) and the Pharmacy Act, 1974 (Act No. 56 of 1974);

- (f) have, in the last five years, at least three years of clinical experience in the specific field in which he or she intends to practise; and
 - (g) have complied with any other conditions or requirements as determined by the Council.
- (3) The Council may conduct an inspection prior to the issuing of a licence.
- (4) (a) Should the Council be satisfied that a practitioner has met all the requirements in sub-regulation (2) the Council may issue such a practitioner with a licence to practise as a private practitioner.
- (b) A licence to practise as a private practitioner is valid for three years.
- (5) A private practitioner must notify the Council of any change in the address of his or her practice.

Annual report by private practitioner

3. (1) A private practitioner must, before 31 March of every year, submit to the Council—
- (a) proof of payment of the annual licence fee;
 - (b) a duly completed annual statistics form (Annexure B), obtainable from the Council; and
 - (c) any other information and documentation as may be required by the Council.

- (2) A private practitioner must, on request by the Council, provide proof of professional development in line with the requirements determined by the Council.

Maintenance and withdrawal of licence

4. (1) The Council may withdraw a licence issued in terms of regulation 2 (4) of these Regulations if the licensed person fails to maintain registration with the Council, as contemplated in section 31(1)(a) and (b) of the Act and if the person—
- (a) is suspended from practising his or her profession for any reason;
 - (b) fails to comply with the requirements and conditions provided for in regulations 2 or 3;
 - (c) has contravened or failed to comply with any provision of the Act or any other legislation applicable to a private practice;
 - (d) is found, in a 24-hour cycle, to be rendering nursing services as a private practitioner in a private practice and elsewhere as an employee; and
 - (e) charges patients for services not rendered.
- (2) A practitioner who takes over the practice of another, for any reason whatsoever, must—
- (a) comply with requirements referred to in regulations 2 and 3;
 - (b) together with his or her details, display the name of the practitioner from whom the practice is transferred for a period of six months; and

(c) thereafter remove the details of the previous practitioner.

- (3) In the event that a private practitioner, for whatever reason, is not able to render services at his or her private practice and is not in a position to close the practice for a period of time, only a registered and qualified practitioner with similar or higher qualifications may render such services at that practice for that time: Provided that the period of absence does not exceed three months.

Itinerant practice

5. A private practitioner may only conduct an itinerant practice, if—
- (a) the service rendered is similar to the service rendered at his or her resident practice;
 - (b) the same fees are charged as at the resident practice which fees may include reasonable disbursements; and
 - (c) that the conditions or environment at the itinerant practice is similar to that of the resident practice.

Partnership, sharing of rooms and covering

6. (1) A private practitioner may practise in partnership or association with another practitioner, provided that such partner or associate is licensed to practise as a private practitioner.

- (2) A private practitioner may not share practice rooms with a person who is not registered in terms of the Act, or with the Health Professions Council, or the Pharmacy Council.
- (3) A private practitioner may employ a *locum*, only if such *locum*—
 - (a) is registered in terms of these Regulations;
 - (b) is not suspended from practising his or her profession for any reason whatsoever;
 - (c) provides the same service at his or her resident practice; and
 - (d) holds a qualification at least equal to that of the private practitioner.

Information on all stationery

- 7. (1) A private practitioner must provide the following information on all official stationery:
 - (a) Particulars of the private practitioner, including but not limited to his or her qualifications and full names;
 - (b) the South African Nursing Council reference number;
 - (c) physical and e-mail addresses of the private practitioner or private practitioners concerned;
 - (d) operating hours; and
 - (e) any other applicable licence number.
- (2) For the purposes of this regulation, stationery refers to a sick note, nursing records and prescription note.

Fees, commission and financial interest

8. (1) A private practitioner must, in respect of service fees—
- (a) charge a reasonable fee for services rendered taking into consideration, as guidance, any publication that may be issued by the Council or the Board of Health Care Funders of Southern Africa (“BHF”) or any medical aid; and
 - (b) charge or receive fees only for the services rendered by him or her, a practitioner in his or her employ, or a practitioner with whom he or she is in business.
- (2) A practitioner may not—
- (a) charge more than three times the prescribed minimum fee as per medical aid tariffs, for services rendered; or
 - (b) render services which are not required in a particular instance, for financial gain.
- (3) A private practitioner may not, in respect of commission—
- (a) accept commission in any form or manner whatsoever, for any goods used by her or his practice; or
 - (b) pay any commission in any form or manner whatsoever, to any person, organisation or institution, for referring or recommending healthcare consumers.

Issuing of sick notes, medical certificates and reports

9. (1) A private practitioner who is authorised as such, may issue a sick note or a medical certificate of attendance, indicating the following information:
- (a) Name, address, qualifications and licence number of the private practitioner;
 - (b) name of the healthcare user;
 - (c) date and time of the consultation;
 - (d) nature of referral, if any; and
 - (e) if the person is fit to return to work.
- (2) A private practitioner may not issue a sick note or a medical certificate declaring the healthcare user unfit for work for more than two days.
- (3) The sick note must be signed by the private practitioner who attended to the healthcare user.

Keeping of records

10. A private practitioner must—
- (a) keep complete records of his or her professional activities;
 - (b) produce or submit such records to the Council on request by the Council;
and
 - (c) keep such records for a minimum of five years.

Referral and support networks

11. (1) A private practitioner must, as soon as the need is identified, refer a healthcare user for further care and management if—
- (a) the care of such healthcare user is beyond the scope of his or her practice; and
 - (b) he or she has assessed, stabilised and treated the healthcare user in order to reduce pain and suffering.
- (2) The private practitioner may refer the healthcare user, only if such private practitioner has—
- (a) assessed the condition to ascertain the diagnosis;
 - (b) informed the healthcare user of the need for such referral; and
 - (c) obtained the consent of the healthcare user, next of kin or duly authorised person for such referral.

Dual registration

12. A private practitioner who is also registered in terms of other legislation dealing with health professions, may not practise or render the services relating to such other profession in the same facility or premises.

Offences and Penalties

13. Any person who contravenes any provision/s of these Regulations or who prevents or attempts to prevent the implementation of or compliance with, these Regulations, is guilty of an offence and is, upon conviction, liable to a fine or imprisonment for a period not exceeding two (2) years or both such fine and imprisonment.

Appeal

14. A person who is aggrieved by a decision of the Council taken in terms of these Regulations may lodge an appeal in terms of section 57 of the Act.

Transitional measures

15. Nurses who are currently in private practice must obtain a licence to practice as a private practitioner within a period of two (2) years following the promulgation of these Regulations.

Repeal

16. The Rules setting out the acts and omissions in respect of which the Council may take disciplinary steps, as they relate to private practice, published under Government Notice No. R.387 of 15 February 1985 (as amended), Government Notice No. R.866 of 24 April 1987 and Government Notice No. R.2490 of 26 October 1990, are hereby repealed.

Short title

17. These Regulations are called the Regulations relating the conditions under which a registered person may practise as a Private Practitioner, 2023.