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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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GOVERNMENT NOTICES GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF HEALTH DEPARTEMENT VAN GESONDHEID

No. R. 494

8 June 2001

FOODSTUFFS, COSMETICS AND DISINFECTANTS ACT, 1972 (ACT NO. 54 OF 1972)

REGULATIONS GOVERNING THE MAXIMUM LIMITS FOR PESTICIDE RESIDUES THAT MAY BE PRESENT IN FOODSTUFFS: AMENDMENT

The Minister of Health has, in terms of section 15(1) of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), made the regulations in the Schedule.

SCHEDULE

Definitions

1. In these regulations "**the Regulations**" means the regulations published under Government Notice No. R. 246 of 11 February 1994, as corrected by Government Notice No. R. 1448 of 26 August 1994.

Amendment of the Regulations

2. Regulation 2 of the Regulations is hereby amended by –

- (1) the insertion in subparagraph (b) of the expression "opposite thereto" after the expression "not listed" and by the substitution for the expression "0,05 mg/kg" of the expression "0,01 mg/kg";
- (2) inserting the following paragraph after paragraph (b):

"(c) that is not imported and that is not listed in the Annex and that contains a chemical substance listed in column I shall be sold or manufactured for sale if such foodstuff exceeds a maximum residue limit of 0,01 mg/kg;"
- (3) renumbering paragraph (c) as paragraph (d);
- (4) renumbering the former paragraph (d) as paragraph (e) and the substitution in such paragraph for the expressions "paragraph (c)" and "0,05 mg/kg" of the expressions "paragraph (d)" and "0,01 mg/kg"; and
- (5) the insertion of the following paragraph after paragraph (e):

"(f) that is imported and that is not listed in publications referred to in paragraph (d) or in the Annex and that contains a chemical substance listed in column I shall be sold or manufactured for sale if such foodstuff exceeds a maximum residue limit of 0,01 mg/kg."

Amendment of the Annex of the Regulations

3. The Annex of the Regulations is hereby amended by –

- (1) the insertion of the following particulars in the correct alphabetical order:

I Chemical Substance	II Foodstuff	III Maximum residue limit (mg/kg)
Abamectin.....	"Apples.....	0,01"
"Acetamiprid.....	Citrus.....	0,5" ¹
Acrinathrin.....	"Hops (dry) Tomatoes.....	10,0 0,1"
Aldicarb (sum of aldicarb, its sulphoxide and sulphone, expressed as aldicarb).....	"Hops (dry)..... Sweet potatoes and groundnuts....	2,0 0,1"
Amitraz [sum of amitraz, calculated as N-(2,4- dimethylphenyl)-N ¹ - methylformamidine, and N- (2,4-dimethylphenyl)-N ¹ - methylformamidine]	"Tomatoes.....	0,5"
Azocyclotin (sum of azocyclotin, cyhexatin and dicyclohexyltin oxide, expressed as cyhexatin).....	"Hops (dry).....	175,0"
Azoxystrobin.....	"Citrus..... Grapes Potatoes.....	0,5 1,0 0,02"
Benalaxyl.....	"Grapes.....	2,0"
"Bromuconazole.....	Apples..... Barley and wheat.....	0,2 0,02"
Carbendazim.....	"Chicory..... Peas.....	0,05 0,2"
"Cartap.....	Cabbage..... Tomatoes.....	150,0 10,0"
"Chlorphenapyr.....	Citrus..... Apples, grapes (table), peaches, (nectarines), pears and tomatoes....	0,01 0,5"
Chlorpyrifos.....	"Bananas..... Grapes (wine).....	1,0 0,5"
Clofentezine.....	"Tomatoes.....	0,2"
Cyhexatin (sum of cyhexatin and dicyclohexyltin oxide, expressed as cyhexatin).....	"Citrus..... Hops (dry).....	2,0 105,0"
Cypermethrin (sum of isomers).....	"Rooibos (green)..... Rooibos (dry)..... Wheat.....	0,5 2,0 0,5
"Cyprodinil.....	Apples..... Barley..... Grapes	0,1 0,05 0,5"

¹ Was 0,2 mg/kg. A changed maximum residue limit is proposed as the agricultural use has been extended to be applied somewhat later in season and also more than once to control certain pests in citrus.

I Chemical Substance	II Foodstuff	III Maximum residue limit (mg/kg)
Cyromazine (sum of cyromazine and melamine).....	"Beans (green).....	5,0"
Deltamethrin.....	"Hops (dry)..... Mangoes..... Paprika (dry)..... Stored grain.....	5,0 0,05 0,2 1,0"
"Difenaconazole.....	Citrus..... Grapes.....	0,05 0,2"
"Dimethyl didecyl ammonium chloride	Apples and pears.....	20,0"
"Dimethomorph	Grapes.....	5,0"
"Diofenolan.....	Citrus.....	1,0"
Endosulfan (sum of alpha- and beta-endosulfan and endosulfan sulphate).....	"Hops (dry)..... Paprika (dry).....	20,0 1,0"
Esfenvalerate (sum of isomers).....	"Hops (dry)..... Mealies (green)..... Wheat.....	15,0 0,5 0,05"
"Etoxazole (etoxazole).....	Apples..... Pears.....	0,2 0,1"
"Fenazaquin.....	Apples, citrus and tomatoes..... Pears.....	0,05 0,5"
"Fenbuconazole (sum of fenbuconazole and its lactone metabolites RH-9129 and RH-9130).....	Apples and pears..... Apricots and peaches..... Barley and wheat..... Plums.....	0,1 0,5 0,05 0,2"
Fenbutatin oxide.....	"Beans (green)..... Peppers and tomatoes.....	0,5 0,2"
"Fenhexamide	Grapes.....	5,0"
"Fenitrothion.....	Stored grain (wheat).....	10,0"
"Fenoxycarb.....	Apples and pears.....	1,0"
Fenpropathrin (sum of isomers)	"Hops (dry).....	40,0"
Fenpyroximate.....	"Tomatoes.....	0,05"
Fenthion (sum of fenthion, its oxygen analogue and their sulphoxides and sulphones, expressed as fenthion).....	"Kiwi fruit.....	1,0"
Fenvalerate.....	"Hops (dry)..... Wheat.....	15,0 0,05"
"Fludioxonil.....	Grapes.....	0,5"
Flusilazole.....	"Peas.....	0,02"
"Fluquinconazole.....	Grapes(wine).....	0,2"

I Chemical Substance	II Foodstuff	III Maximum residue limit (mg/kg)
Formetanate.....	"Apples..... Citrus..... Grapes..... Peaches (nectarines).....	0,1 0,5 0,05 0,02"
Fosetyl-AI (phosphorous acid).....	"Potatoes.....	10,0"
"Fosthiazate.....	Potatoes.....	0,05"
"Haloxifop (haloxifop esters, haloxifop and its conjugates, expressed as haloxifop).....	Apples, apricots, citrus, grapes, peaches, pears, pineapples and plums..... Cotton seed..... Dry beans, soya beans and sugar cane..... Groundnuts..... Lucerne.....	0,05 0,5 0,1 2,0 1,0"
Imidacloprid.....	"Apples..... Cucurbits and cotton seed.....	0,2 0,05"
Iprodione.....	"Apples..... Citrus..... Pears.....	2,5 1,0 2,0"
"Kresoxim-methyl.....	Apples and pears..... Grapes and citrus.....	0,1 0,5"
"Metalaxyl-m.....	Avocados..... Citrus..... Pineapples and tomatoes.....	0,05 1,0 0,5"
Methamidophos.....	"Mangoes.....	1,0"
"Methyl-parathion.....	Citrus.....	1,0"
Myclobutanil (sum of myclobutanil and its alcohol metabolite)	"Cucurbits.....	0,5"
Ofurace.....	"Potatoes..... Tomatoes.....	0,01 0,1"
Oxydemeton-methyl (sum of oxydemeton-methyl and its sulphone, expressed as oxydemeton-methyl).....	"Brinjals, mealies (green), peas and peppers..... Cotton seed, groundnuts, onions and rooibos	0,2 0,1 0,02"
Parathion.....	"Castor-oil seed and onions.....	0,05"
"Pencycuron.....	Potatoes.....	0,05"
Permethrin (sum of isomers)..	"Soya beans..... Cereal grains.....	0,1 2,0
"Phosphorous acid.....	Citrus.....	50,0"
Pirimiphos-methyl.....	"Stored grain (wheat only).....	10,0"
Prochloraz (sum of prochloraz and its metabolites containing the 2,4,6-trichlorophenol moiety, expressed as prochloraz).....	"Potatoes.....	0,1"

I Chemical Substance	II Foodstuff	III Maximum residue limit (mg/kg)
Propamocarb hydrochloride...	"Potatoes.....	0,5"
Propargite.....	"Citrus.....	2,0"
Propiconazole.....	"Bananas.....	0,1"
"Pymetrozine.....	Cabbage.....	0,02"
Pyrazophos.....	"Tomatoes.....	0,5"
"Pyrimethanil.....	Grapes.....	5,0"
Pyriproxyfen.....	"Mangoes.....	0,02"
"Spiroxamine	Grapes.....	1,0"
Sulfur (elemental sulfur)...	"Litchis (peel). ²	1 000,0
	Litchis (pulp).....	55,0"
Tebuconazole.....	"Citrus.....	0,02"
"Tebufenozide.....	Apples and pears.....	1,0"
Thiram (mg CS ₂ /kg).....	"Grapes.....	5,0"
Triflumuron.....	"Mangoes.....	0,2"
"Trifloxystrobin.....	Apples.....	0,1
	Grapes.....	0,5"

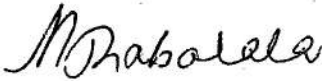
(2) the deletion of -

- the expression, "grapes" in column II opposite the chemical substance "Chlorpyrifos" in column I;
- the expressions "Citrus (whole fruit)" and "Citrus (pulp)" in column II and opposite thereto in column III the expressions "0,05" and "0,02" opposite the chemical substance "Formetanate";
- the chemical substance "Haloxypop-ethoxyethyl (as haloxypop)" in column I and the foodstuffs opposite thereto in column II and the maximum residue limits opposite thereto in column III; and
- the expression "and pears" in column II opposite the chemical substance "Iprodione" in column I.

² Was only litchis with maximum residue limit of 100,0 mg/kg

(3) the substitution -

- (a) in column II opposite the chemical substance "Iprodione" in column I for the expression "Ginger," of the expression "Ginger and";
- (b) in column II opposite the chemical substance "Parathion" in column I for the expression "Beans, beetroot, carrots, castor-oil seed, cotton seed, groundnuts, onions, sweet potatoes and turnips" of the expression "Beetroot, carrots, sweet potatoes and turnips";
- (c) in column III opposite the foodstuff "Citrus" in column II and the chemical substance "Pyriproxyfen" in column I for the expression "0,05" of the expression "0,2"; and
- (d) in column III opposite the foodstuff "Grapes" in column II and the chemical substance "Tebuconazole" in column I for the expression "5,0" of the expression "2,0".

**MINISTER OF HEALTH**

DATE: 25. 5. 2001

No. R. 495

8 June 2001

HEALTH PROFESSIONS ACT, 1974**REGULATIONS RELATING TO IMPAIRMENT OF STUDENTS AND PRACTITIONERS**

The Minister of Health has, under section 51, read with section 61(1) of the Health Professions Act, 1974 (Act No. 56 of 1974), in consultation with the Health Professions Council of South Africa, made the regulations in the Schedule.

SCHEDULE**Definitions**

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall bear such meaning, and unless the context otherwise indicates -

"assessment" means the informal process conducted in terms of these regulations to establish whether or not a student or practitioner is impaired;

"board" means a professional board established in terms of section 15(1) of the Act, as published by Government Notice No. R.75 of 16 January 1998; and

"chairperson" means the chairperson of the health committee;

"committee of preliminary inquiry" means a committee established by the relevant board under section 15(5)(f) of the Act to undertake preliminary inquiries into complaints of alleged unprofessional conduct;

“health assessor” means a qualified medical expert appointed by the health committee to advise the health committee on clinical matters during an investigation;

“health committee” means a health committee established by the relevant board under section 15(5)(f) of the Act, and includes a joint standing committee established under section 15B(1)(f) of the Act;

“health examiner” means a practitioner appointed by the chairperson or the health committee, as the case may be, to examine a student or practitioner and report to the health committee on the alleged impairment of that student or practitioner;

“investigation” means the formal process conducted by the health committee –

- (a) in the absence of the voluntary co-operation of a student or practitioner, to establish whether that student or practitioner is impaired; or
- (b) to deal with the conditions of registration or practice imposed on a student or practitioner in terms of regulations 5(2), 6, 8(2), 9, 19(4), 19(5) or 22(1);

“management” means the administrative and clinical steps required to be taken by the health committee to implement these regulations;

“medical examination” means a medical evaluation of a person by the appropriate physical, psychiatric and psychosocial means required to determine whether or not the person is impaired;

“practitioner” means a person registered in terms of the Act to practise a profession for which the Act provides;

“professional conduct committee” means a committee established by the relevant board under section 15(5)(f) of the Act to conduct an inquiry into alleged unprofessional conduct;

“supervisor” means a practitioner or a person approved and appointed by the health committee to supervise and report to the health committee in terms of these regulations on a student or practitioner who has been found to be impaired;

"student" means any person registered as a student in terms of the Act, including a student intern;

"the Act" means the Health Professions Act, 1974 (Act No. 56 of 1974);

"therapist" means a medical practitioner or any other professional person who holds the appropriate registration, nominated by an impaired student or practitioner and approved by the health committee to take responsibility for that student or practitioner's treatment and to submit reports to the health committee thereon, as well as on his or her fitness to practise.

ASSESSMENT BY HEALTH COMMITTEE

Information

2. (1) The registrar shall, if he or she receives information regarding a student or practitioner which indicates possible impairment, submit that information in writing to –
 - (a) the chairperson during intervals between meetings of the health committee or where the urgency of the matter requires immediate action; or
 - (b) the health committee at its next meeting.
- (2) On receipt of the information referred to in subregulation (1), the chairperson or the health committee may cause such inquiries to be made in relation to the matter as are deemed necessary.

Notification and reports

3. (1) If the chairperson or the health committee deems it necessary to take the matter further, the chairperson or the health committee shall instruct the

registrar to notify the student or the practitioner in writing that information had been received which alleges that he or she may be impaired and –

- (a) requesting him or her to submit to a medical examination by the health examiner or examiners, as the case may be, who will furnish the health committee with an individual or combined report on the alleged impairment after such examination;
- (b) informing him or her if the information received by the registrar includes reports on such student or practitioner by one or more medical practitioners who have recently examined him or her and it appears to the chairperson or the health committee that such reports contain sufficient medical evidence that such student or practitioner is impaired;
- (c) informing him or her that he or she could, in addition to the reports referred to in paragraphs (a) and (b), submit one or more other reports on the alleged impairment by medical practitioners of his or her own choice;
- (d) inviting him or her to submit any observation or other evidence which he or she may wish to offer regarding the alleged impairment; and
- (e) informing him or her that, if he or she refuses to be examined or if, after having agreed thereto, he or she subsequently fails to submit to the medical examination referred to in paragraph (a), the matter may be dealt with by the health committee by way of an investigation.

- (2) The registrar shall enclose in the written notification referred to in subregulation (1), a summary of the information received by him or her and may enclose copies of any report referred to in subregulation (1)(b).

- 4. The registrar shall submit the information and reports referred to in regulations 2 and 3 to the health examiners and request them to report to the health committee –

- (a) on the student or practitioner's alleged impairment;
- (b) on the fitness of the student or practitioner to practise, either generally or on a limited basis; and
- (c) on their recommendations, if any, as to the management of the student or practitioner's case.

Action following reports on medical examination

5. (1) The registrar shall submit copies of the reports by the health examiners referred to in regulation 3(1)(a), including any reports by medical practitioners referred to in regulation 3(1)(a), (b) or (c), to –
- (a) the chairperson during the intervals between the meetings of the health committee or where the urgency of the matter requires immediate action; or
 - (b) the health committee at its next meeting.
- (2) If the health examiners and medical practitioners referred to in regulation 3 –
- (a) report unanimously that the student or practitioner -
 - (i) is impaired and not fit to practise;
 - (ii) is impaired and not fit to practise except on a limited basis or under supervision or both; or
 - (iii) suffers from a recurring or episodic physical or mental condition which, although in remission at the time of the medical examination, may be expected in future to render him

or her unfit to practise or unfit to practise except on a limited basis or under supervision or both,

the chairperson or the health committee shall make a finding on the matter and resolve on the further management of the case and, thereupon, direct the registrar to inform the student or practitioner in writing accordingly;

(b) do not report unanimously as referred to in paragraph (a), the chairperson or the health committee shall make a finding on the matter that he or it deems fit in the light of the balance of opinion in the reports submitted and resolve on the further management of the case, including any limitations on the student or practitioner's registration or practice, and thereupon direct the registrar to inform the student or practitioner in writing accordingly;

(c) report unanimously that the student or practitioner is not impaired, the health committee shall make a finding on the matter and direct the registrar to inform the student or the practitioner in writing accordingly.

Findings of chairperson or health committee

6. In the event of a finding referred to in regulation 5(2)(a) and (b), the registrar shall request the student or practitioner to state in writing before a date determined by the registrar whether he or she is prepared to undertake voluntarily to comply with the resolutions of the chairperson or the health committee on the management of his or her case, including any limitations on his or her registration or practice which the chairperson or the health committee may have imposed.

Confirmation by health committee

7. Any matter which has been dealt with by the chairperson in accordance with regulation 5(1)(a) shall be submitted to the health committee by the registrar at its next meeting for confirmation of the chairperson's actions or such amendment thereof as the health committee deems fit.

Compliance by student or practitioner

8. (1) If by the date referred to in regulation 6 the student or practitioner has indicated that he or she undertakes to comply with the resolutions regarding the management of his or her case, including any limitations imposed on his or her registration or practice, the health committee may, if it is satisfied that the undertaking is being observed by the student or practitioner, postpone further action on the case and cause the student or practitioner to be informed accordingly.

(2) If the student or practitioner –

(a) has by the date referred to in regulation 6 or such further period as the registrar may allow, failed to indicate that he or she undertakes to comply with the resolutions regarding the management of his or her case, including any limitations on his or her registration or practice; or

(b) has by the date referred to in regulation 6 failed to reply to any letter sent to him or her for the purpose of that regulation; or

(c) has refused or failed to subject him or her to the medical examination referred to in regulation 3(1)(a),

the health committee may order the registrar to arrange for an investigation.

Further investigation

9. (1) If it appears to the health committee from the reports of the health examiners referred to in regulation 4 and any medical practitioner referred to in regulation 3(1)(c), or from any other information which the health committee has received, that the condition of the student or practitioner is such that he or she would not be able to give the undertaking referred to in regulation 8, or that he or she could not be relied on to comply with such an undertaking, the health committee may –

- (a) order the registrar to arrange for an investigation; or
 - (b) decide to deal with the matter in any other appropriate fashion.
- (2) If, as a result of a report from a therapist, a supervisor or from other information, it appears to the health committee that the resolutions referred to in regulation 5(2) with which a student or practitioner has undertaken to comply, should be amended or should cease to apply, the health committee may amend its resolutions as it deems fit or may direct that they be revoked and inform the student or practitioner in writing accordingly.
- (3) If, as a result of a report from a therapist, a supervisor or from other information, it appears to the health committee either that the student or practitioner has ceased to comply with an undertaking referred to in regulation 8, or that his or her physical or mental condition has otherwise deteriorated, the health committee may –
- (a) order the registrar to arrange for an investigation; or
 - (b) decide to deal with the manner as it deems fit.

Committee of preliminary inquiry or professional conduct committee

10. (1) If the health committee, as a result of a report or other information, is of the opinion that there are sufficient reasons to suspect that a student or practitioner may be guilty of unprofessional conduct and that it is therefore necessary to refer the matter to the committee of preliminary inquiry, the health committee may direct the registrar to submit the case to that committee.
- (2) If a case has been referred to the health committee by a committee of preliminary inquiry or a professional conduct committee, the health committee may, if it deems fit, direct the registrar to request the student or practitioner to

submit to a medical examination referred to in regulation 3(1), before his or her case is considered by the health committee in terms of these regulations.

- (3) If a student or practitioner agrees to subject himself or herself to a medical examination referred to in regulation 3(1), the registrar shall submit to the health committee any reports received, together with the information on which the committee of preliminary inquiry or the professional conduct committee, as the case may be, decided to refer the case.

INVESTIGATION BY HEALTH COMMITTEE

Notice of investigation

11. Within 28 days after a case has been referred for an investigation, the registrar shall serve on the student or practitioner concerned a notice which shall –
- (a) indicate the physical or mental condition by reason of which it is alleged that he or she is impaired;
 - (b) inform him or her that the matter has been referred to the health committee to determine whether he or she is so impaired and, if so, to take appropriate action for the management of his or her case;
 - (c) state the day, time and place of the investigation; and
 - (d) request the student or practitioner to attend the investigation and inform him or her that he or she may be represented by his or her legal representative, medical adviser or both.

Postponement of investigation

12. (1) The chairperson may, if he or she deems fit, postpone the investigation to such later date or later meeting of the health committee as he or she may determine.

- (2) The registrar shall, within 14 days, notify the student or practitioner in writing of any decision to postpone an investigation and shall inform him or her at that time but not later than 28 days after the chairperson's decision of the revised arrangements for the investigation.

Circulation of evidence

13. Before the meeting of the health committee, the registrar shall send to each member of the committee a copy of –
 - (a) the notice referred to in regulation 11; and
 - (b) the information referred to in regulation 2 and the documents referred to in regulation 3.

Health assessors

14. The chairperson may instruct the registrar to arrange for one or more health assessors to attend any meeting of the health committee where a case is being considered in accordance with these regulations, in order to advise the health committee on any relevant clinical matter.

Accessibility of investigation

15.
 - (1) The health committee shall sit *in camera*.
 - (2) The student or practitioner shall be entitled to be present while his or her case is being considered and may be represented by his or her legal representative, medical adviser or both, and may be accompanied by any member of his or her family or by a friend: Provided that this regulation shall not entitle the student or practitioner to be accompanied into the room where the meeting takes place by any person from whom oral evidence may be required.

Procedure

16. Where the student or practitioner is neither present nor represented, the health committee may –
- (a) proceed with the investigation if the health committee is satisfied that all reasonable efforts have been made in compliance with regulation 11 to serve the notice concerned;
 - (b) consider the student or practitioner's alleged impairment on the basis of the reports, written statements and other documents circulated to members in accordance with regulation 13.

Adjournment for further medical reports

17. The health committee may adjourn an investigation in order to refer the allegedly impaired student or practitioner for a medical examination and to obtain further medical reports or other information as to his or her physical or mental condition or in relation to his or her fitness to practise.

Postponement of finding

18. The health committee may, in its own discretion, postpone the making of a finding on the student or practitioner's impairment or fitness to practise and may specify the conditions of such postponement.

Resolutions of the health committee

19. (1) The health committee shall make a finding as to whether or not the student or practitioner is impaired by reason of his or her physical or mental condition.
- (2) In reaching its finding, the health committee shall be entitled to regard as an impairment –

- (a) the student or practitioner's current physical or mental condition;
 - (b) recurring or episodic physical or mental condition; or
 - (c) a condition which, although currently in remission, may be expected to cause a recurrence of the impairment.
- (3) Where a student or practitioner has refused or, in the opinion of the health committee, has failed to submit to a medical examination referred to in regulation 3(1) the health committee may find that the student or practitioner is impaired on the basis of the information before the health committee referred to in regulation 16(b).
- (4) If the health committee finds the student or practitioner to be impaired by reason of his or her physical or mental condition, the health committee shall consider and determine whether to resolve that his or her registration and the practising of his or her profession should be conditional for the protection of patients or in his or her own interests and what the nature of such conditions will be.
- (5) If the health committee is of the opinion that the imposition of conditions on the student or practitioner's registration or the practising of his or her profession is insufficient, the health committee may resolve that the registration of the student or practitioner be suspended and shall determine the period of that suspension and the conditions thereof.
- (6) Where, in a case referred to the health committee by a professional conduct committee, an order has been made by a professional conduct committee regarding interim suspension or interim conditions of registration or practice, or where an order made under these regulations by a professional conduct committee is in force, the health committee may –
- (a) revoke such order; or

- (b) revoke or amend any condition of registration or practice imposed by such order.

Notification of decisions of health committee

- 20. After the health committee has made a finding, adopted a resolution or amended or revoked a resolution under these regulations, the chairperson shall direct the registrar to inform the student or practitioner thereof in writing and of his or her right to appeal against that finding, resolution or both.

Health examiners and health assessors

- 21. In choosing health examiners or health assessors in relation to particular cases, the chairperson or the health committee shall have regard to the nature of the physical or mental condition which is alleged to cause the impairment of the student or practitioner.

Powers of health committee

- 22. (1) The health committee may –
 - (a) make a finding on whether or not a student or practitioner is impaired, based on an assessment or investigation in terms of these regulations;
 - (b) resolve on the management of a student or practitioner who has been found to be impaired with a view to the securing of patient safety and the treatment or rehabilitation of such student or practitioner; and
 - (c) impose any condition of registration or practice which the health committee may deem to be appropriate to achieve the objects referred to in paragraph (b), which may include conditions with regard to –

- (i) his or her status as a registered person;
 - (ii) the locality of his or her practice;
 - (iii) the scope of his or her practice;
 - (iv) permission to handle scheduled substances such as the purchasing, acquiring, keeping, using, administering, prescribing, ordering, supplying or possessing of any or all of the substances scheduled in terms of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965);
 - (v) the prohibition of the use or abuse of dependence-producing substances scheduled in the Regulations made under the Prevention and Treatment of Drug Dependency Act, 1992 (Act No. 20 of 1992) promulgated by Government Notice No. R. 721 of 30 April 1993, including drugs other than medicine;
 - (vi) ensuring and securing the treatment and rehabilitation of the impaired student or practitioner;
 - (vii) securing supervision of the fitness to practise and the performance of the impaired student or practitioner.
- (2) A condition which is imposed by the health committee on a student or practitioner who has been found to be impaired shall be subject to –
- (a) reports to be submitted by the relevant therapist or supervisor or both to the health committee at the intervals determined by the health committee to ensure that the objectives referred to in subregulation (1) are being achieved;
 - (b) review by the health committee, and the position of each impaired student or practitioner shall be so revised at least every three years.

- (3) A review of the conditions of registration or practice referred to in subregulation (2) may at any time be –
- (a) requested by the impaired student or practitioner;
 - (b) recommended by the impaired student or practitioner's supervisor or therapist; or
 - (c) brought about by the health committee itself on the basis of reports referred to in subregulation (2)(a).



MINISTER OF HEALTH

DATE: 25. 5. 2001

WET OP GESONDHEIDSBEROEPE, 1974**REGULASIES BETREFFENDE DIE GESTREMDHEID VAN STUDENTE EN
PRAKTISYNS**

Die Minister van Gesondheid het kragtens artikel 51, gelees met artikel 61(1) van die Wet op Gesondheidsberoepe, 1974 (Wet No. 56 van 1974), in oorleg met die Raad vir Gesondheidsberoepe van Suid-Afrika, die regulasies in die Bylae uitgevaardig.

BYLAE**Woordomskrywings**

1. In hierdie regulasies het enige woord of uitdrukking waaraan 'n betekenis in die Wet toegeken is, daardie betekenis, en tensy uit die samehang anders blyk, beteken -

"beoordeling" die informele proses wat kragtens hierdie regulasies uitgevoer word om vas te stel of 'n student of praktisyn gestremd is of nie;

"bestuur" die administratiewe en kliniese stappe wat vereis word om deur die gesondheidskomitee gedoen te word om hierdie regulasies te implementeer.

"die Wet" die Wet op Gesondheidsberoepe, 1974 (Wet No. 56 van 1974);

"gesondheidsassessor" 'n gekwalifiseerde mediese deskundige wat deur die gesondheidskomitee aangestel is om gedurende 'n ondersoek die gesondheidskomitee te adviseer oor kliniese sake;

“gesondheidskomitee” ‘n gesondheidskomitee wat deur die betrokke raad ingestel is kragtens artikel 15(5)(f) van die Wet en sluit ‘n gesamentlike staande komitee in wat kragtens artikel 15B(1)(f) van die Wet ingestel is;

“gesondheidsondersoeker” ‘n praktisyn wat aangestel is deur die voorsitter of die gesondheidskomitee, na gelang van die geval, om ‘n student of praktisyn te ondersoek en oor die beweerde gestremdheid van sodanige student of praktisyn aan die gesondheidskomitee verslag te doen;

“komitee van voorlopige ondersoek” ‘n komitee wat deur die toepaslike raad ingestel is kragtens artikel 15(5)(f) van die Wet om voorlopige ondersoeke na klagtes van beweerde onprofessionele gedrag te onderneem;

“mediese ondersoek” ‘n mediese evaluering van ‘n persoon deur die toepaslike fisiese, psigiatryse en psigo-sosiale metodes wat vereis word om te bepaal of die persoon gestremd is of nie;

“ondersoek” die formele proses wat deur die gesondheidskomitee gelei word –

- (a) om by onstentenis van die vrywillige samewerking van ‘n student of praktisyn vas te stel of daardie student of praktisyn gestremd is; of
- (b) om met die voorwaardes van registrasie of praktisering te handel wat ‘n student of praktisyn kragtens regulasies 5(2), 6, 8(2), 9, 19(4), 19(5) of 22(1) opgelê is;

“praktisyn” ‘n persoon wat kragtens die Wet geregistreer is om ‘n beroep te beoefen waarvoor die Wet voorsiening maak;

“professionele gedragskomitee” ‘n komitee wat deur die toepaslike raad ingestel is kragtens artikel 15(5)(f) van die Wet om ‘n ondersoek na beweerde onprofessionele gedrag te lei;

“raad” ‘n beroepsraad ingestel kragtens artikel 15(1) van die Wet, soos gepubliseer by Goewermentskennisgewing No. R.75 van 16 Januarie 1998;

“student” enige persoon kragtens die Wet as ‘n student geregistreer, insluitend ‘n student-intern;

“terapeut” ‘n geneesheer of enige ander professionele persoon wat in besit is van toepaslike registrasie, wat deur ‘n gestremde student of praktisyn genomineer en deur die gesondheidskomitee goedgekeur is om verantwoordelikheid te aanvaar vir daardie student of praktisyn se behandeling en om verslae aan die gesondheidskomitee daaroor voor te lê, asook oor sy of haar geskiktheid om te praktiseer;

“toesighouer” ‘n praktisyn of ‘n persoon wat deur die gesondheidskomitee goedgekeur en aangestel is om kragtens hierdie regulasies toesig te hou en aan die gesondheidskomitee verslag te doen oor ‘n student of praktisyn wat gestremd bevind is;

“voorsitter” die voorsitter van die gesondheidskomitee.

BEOORDELING DEUR GESONDHEIDSKOMITEE

Inligting

2. (1) Die registrateur moet, indien hy of sy inligting aangaande ‘n student of praktisyn ontvang wat moontlike gestremdheid aandui, daardie inligting skriftelik voorlê aan -
 - (a) die voorsitter gedurende tussenposes tussen vergaderings van die gesondheidskomitee, of waar die dringendheid van die saak onmiddellike optrede vereis; of
 - (b) die gesondheidskomitee by sy volgende vergadering.
- (2) By ontvangs van die inligting bedoel in subregulasie (1), kan die voorsitter of die gesondheidskomitee die ondersoeke betreffende die saak laat doen wat nodig geag word.

Kennisgewing en verslae

3. (1) Indien die voorsitter of die gesondheidskomitee dit nodig ag om die saak verder te voer, moet die voorsitter of die gesondheidskomitee die registrateur opdrag gee om die student of die praktisyn skriftelik in kennis

te stel dat inligting ontvang is wat beweer dat hy of sy moontlik gestremd is en -

- (a) hom of haar versoek om hom of haar te onderwerp aan 'n mediese ondersoek deur die gesondheidsondersoeker of -ondersoekers, na gelang van die geval, wat die gesondheidskomitee na sodanige ondersoek van 'n individuele of gesamentlike verslag oor die beweerde gestremdheid sal voorsien; of
- (b) hom of haar inlig indien die inligting wat deur die registrateur ontvang is verslae insluit oor sodanige student of praktisyn deur een of meer geneeshere wat hom of haar onlangs ondersoek het, en dit vir die voorsitter of die gesondheidskomitee blyk dat sodanige verslae voldoende geneeskundige getuienis bevat dat sodanige student of praktisyn gestremd is;
- (c) hom of haar inlig dat, behalwe die verslae bedoel in paragrawe (a) en (b), hy of sy een of meer ander verslae deur geneeshere van sy of haar eie keuse oor die beweerde gestremdheid kan voorlê;
- (d) hom of haar uitnoui om enige waarneming of ander getuienis wat hy of sy moontlik oor die beweerde gestremdheid wil aanbied, voor te lê; en
- (e) hom of haar inlig dat, indien hy of sy weier om ondersoek te word of indien nadat hy of sy ingestem het daartoe, hy of sy daarna versuim om aan die mediese ondersoek in paragraaf (a) bedoel, onderwerp te word, die saak deur die gesondheidskomitee hanteer kan word by wyse van 'n ondersoek.

- (2) Die registrateur moet in die skriftelike kennisgewing bedoel in subregulasie (1), 'n opsomming insluit van die inligting wat hy of sy ontvang het en kan afskrifte insluit van enige verslag bedoel in subregulasie (1)(b).

- 4. Die registrateur moet die inligting en verslae bedoel in regulasies 2 en 3 aan die gesondheidsonderzoekers voorlê en hulle versoek om aan die gesondheidskomitee verslag te doen -

- (a) oor die student of praktisyn se beweerde gestremdheid;
- (b) oor die geskiktheid van die student of praktisyn om te praktiseer, hetsy in die algemeen of op 'n beperkte grondslag; en
- (c) oor hulle aanbevelings, indien enige, oor die bestuur van die student of praktisyn se geval.

Optrede wat volg op verslae oor mediese ondersoek

5. (1) Die registrateur moet afskrifte van die verslae deur die gesondheidsonderzoekers bedoel in regulasie 3(1)(a), insluitende enige verslae deur geneeshere bedoel in regulasie 3(1)(a), (b) of (c), indien by -
- (a) die voorsitter gedurende tussenposes tussen vergaderings van die gesondheidskomitee of waar die dringendheid van die saak onmiddellike optrede vereis; of
 - (b) die gesondheidskomitee by sy volgende vergadering.
- (2) Indien die gesondheidsonderzoekers en geneeshere bedoel in regulasie 3-
- (a) eenparig verslag doen dat die student of praktisyn -
 - (i) gestremd is en nie geskik is om te praktiseer nie;
 - (ii) gestremd is en nie geskik is om te praktiseer nie behalwe op 'n beperkte grondslag of onder toesig of beide; of
 - (iii) aan 'n herhalende of episodiese liggaamlike of geestestoestand ly wat, alhoewel dit in remissie is ten tyde van die mediese ondersoek, in die toekoms na verwagting hom of haar ongeskik kan maak om te praktiseer, behalwe op 'n beperkte grondslag of onder toesig of beide,

moet die voorsitter of die gesondheidskomitee 'n bevinding oor die saak maak en besluit oor die verdere bestuur van die geval en daarna aan die registrateur opdrag gee om die student of praktisyn skriftelik aldus in te lig;

(b) nie eenparig verslag doen soos bedoel in paragraaf (a) nie, moet die voorsitter of die gesondheidskomitee ten opsigte van die saak 'n bevinding maak wat gepas geag word in die lig van die meerderheidsmening in die verslae voorgelê en besluit oor die verdere bestuur van die saak, insluitende enige beperkings op die student of praktisyn se registrasie of praktyk, en daarna die registrateur opdrag gee om die student of praktisyn dienoreenkomstig skriftelik in te lig;

(c) eenparig verslag doen dat die student of praktisyn nie gestremd is nie, moet die gesondheidskomitee 'n bevinding oor die saak maak en die registrateur opdrag gee om die student of praktisyn dienoreenkomstig skriftelik in te lig.

Bevindings van voorsitter of gesondheidskomitee

6. In die geval van 'n bevinding bedoel in regulasie 5(2)(a) en (b), moet die registrateur die student of praktisyn versoek om skriftelik te bevestig voor 'n datum bepaal deur die registrateur of hy of sy bereid is om vrywillig te onderneem om aan die besluite van die voorsitter of die gesondheidskomitee oor die bestuur van sy of haar geval te voldoen, insluitende enige beperkings op sy of haar registrasie of praktyk wat die voorsitter of die gesondheidskomitee kan opgelê het.

Bevestiging deur gesondheidskomitee

7. Enige saak wat deur die voorsitter hanteer is in ooreenstemming met regulasie 5(1)(a), moet aan die gesondheidskomitee deur die registrateur by sy volgende vergadering voorgelê word vir bekragtiging van die voorsitter se optrede of sodanige wysiging daarvan soos die gesondheidskomitee geskik ag.

Nakoming deur student of praktisyn

8. (1) Indien, teen die datum bedoel in regulasie 6, die student of praktisyn aangedui het dat hy of sy hom of haar verbind tot voldoening aan die besluite oor die bestuur van sy of haar geval, insluitende enige beperkings wat op sy of haar registrasie of praktyk geplaas is, kan die gesondheidskomitee, indien hy oortuig is dat aan die verbintenis voldoen word deur die student of praktisyn, verdere optrede oor die geval uitstel en kan die student of praktisyn dienooreenkomstig ingelig word.
- (2) Indien die student of praktisyn –
- (a) teen die datum bedoel in regulasie 6 of sodanige verdere tydperk as wat die registrateur toelaat, versuim het om aan te dui dat hy of sy hom of haar verbind tot voldoening aan die besluite oor die bestuur van sy of haar geval, insluitend enige beperkings wat op sy of haar registrasie of praktyk geplaas is; of
 - (b) teen die datum bedoel in regulasie 6 versuim om op enige brief te antwoord wat aan hom of haar gestuur is vir die doeleindes van daardie regulasie; of
 - (c) geweier of versuim het om hom of haar te onderwerp aan die mediese ondersoek bedoel in regulasie 3(1)(a),

kan die gesondheidskomitee die registrateur gelas om 'n ondersoek te reël.

Verdere ondersoek

9. (1) Indien dit vir die gesondheidskomitee blyk uit die verslae van die gesondheidsondersoekers bedoel in regulasie 4 en 'n geneesheer bedoel in regulasie 3(1)(c), of uit enige ander inligting wat die gesondheidskomitee ontvang het, dat die toestand van die student of praktisyn sodanig is dat hy of sy nie in staat sal wees om die verbintenis bedoel in regulasie 8 aan te gaan nie, of dat daar nie op hom of haar staat

gemaak kan word om aan sodanige verbintenis te voldoen nie, kan die gesondheidskomitee -

- (a) die registrateur gelas om 'n ondersoek te reël; of
 - (b) besluit om met die saak op 'n ander gepaste wyse te handel.
- (2) Indien, na aanleiding van 'n verslag van 'n terapeut, 'n toesighouer of van ander inligting, dit vir die gesondheidskomitee blyk dat die besluite bedoel in regulasie 5(2) waartoe 'n student of praktisyn hom of haar verbind het, gewysig moet word of moet ophou om van toepassing te wees, kan die gesondheidskomitee sy besluite wysig soos dit geskik ag of gelas dat hulle herroep word en die student of praktisyn dienoreenkomstig skriftelik inlig.
- (3) Indien, na aanleiding van 'n verslag van 'n terapeut, 'n toesighouer of van ander inligting, dit vir die gesondheidskomitee blyk dat die student of praktisyn of opgehou het om aan 'n verbintenis bedoel in regulasie 8 te voldoen of dat sy of haar liggaamlike of geestestoestand andersins agteruit gegaan het, mag die gesondheidskomitee -
- (a) die registrateur gelas om 'n ondersoek te reël; of
 - (b) besluit om die saak te hanteer soos hy dit gepas ag.

Komitee van voorlopige ondersoek of professionele gedragskomitee

10. (1) Indien die gesondheidskomitee as gevolg van 'n verslag of ander inligting, van mening is dat daar voldoende redes is om te vermoed dat 'n student of praktisyn skuldig mag wees aan onprofessionele gedrag en dat dit daarom nodig is om die geval na die komitee van voorlopige ondersoek te verwys, kan die gesondheidskomitee die registrateur gelas om die saak aan daardie komitee voor te lê.
- (2) Indien 'n saak na die gesondheidskomitee verwys is deur 'n komitee van voorlopige ondersoek of 'n professionele gedragskomitee, kan die gesondheidskomitee, indien hy dit gepas ag, die registrateur gelas om die student of praktisyn te versoek om hom of haar aan 'n mediese ondersoek

bedoel in regulasie 3(1) te onderwerp voordat sy of haar geval deur die gesondheidskomitee oorweeg word ingevolge van hierdie regulasies.

- (3) Indien 'n student of praktisyn instem om homself of haarself aan 'n mediese ondersoek bedoel in regulasie 3(1) te onderwerp, moet die registrateur enige verslae wat ontvang is aan die gesondheidskomitee voorlê tesame met die inligting op grond waarvan die komitee van voorlopige ondersoek of die professionele gedragskomitee, na gelang van die geval, besluit het om die saak te verwys.

ONDERSOEK DEUR GESONDHEIDSKOMITEE

Kennisgewing van 'n ondersoek

11. Binne 28 dae nadat 'n saak vir 'n ondersoek verwys is, moet die registrateur 'n kennisgewing aan die betrokke student of praktisyn beteken wat -
- (a) die liggaamlike of geestestoestand moet vermeld op grond waarvan daar beweer word dat hy of sy gestremd is;
 - (b) hom of haar in kennis moet stel dat die geval na die gesondheidskomitee verwys is om vas te stel of hy of sy aldus gestremd is en, indien wel, om gepaste optrede vir die bestuur van sy of haar geval in te stel;
 - (c) die dag, tyd en plek van die ondersoek moet meld; en
 - (d) die student of praktisyn moet versoek om die ondersoek by te woon en hom of haar moet inlig dat hy of sy deur sy of haar regsverteenwoordiger, mediese adviseur of beide verteenwoordig kan word.

Uitstel van ondersoek

12. (1) Die voorsitter kan, indien hy of sy dit gepas ag, die ondersoek uitstel na 'n latere datum of latere vergadering van die gesondheidskomitee wat hy of sy kan bepaal.

- (2) Die registrateur moet binne 14 dae die student of praktisyn skriftelik in kennis stel van enige besluit om 'n ondersoek uit te stel en moet hom of haar op daardie tydstip maar nie later nie as 28 dae na die voorsitter se besluit, van die gewysigde reëlings vir die ondersoek in kennis stel.

Beskikbaarstelling van getuienis

13. Voor die vergadering van die gesondheidskomitee, moet die registrateur aan elke lid van die komitee 'n afskrif stuur van –
 - (a) die kennisgewing bedoel in regulasie 11; en
 - (b) die inligting bedoel in regulasie 2 en die dokumente bedoel in regulasie 3.

Gesondheidsassessore

14. Die voorsitter kan die registrateur gelas om te reël dat een of meer gesondheidsassessore enige vergadering van die gesondheidskomitee bywoon waar 'n saak oorweeg word in ooreenstemming met hierdie regulasies, ten einde die gesondheidskomitee oor enige relevante kliniese aangeleentheid te adviseer.

Toeganklikheid van ondersoek

15. (1) Die gesondheidskomitee moet *in camera* vergader.
- (2) Die student of praktisyn is daarop geregtig om teenwoordig te wees terwyl sy of haar saak oorweeg word en kan verteenwoordig word deur sy of haar regsverteenwoordiger, mediese adviseur, of beide en kan vergesel word deur enige lid van sy of haar familie of van 'n vriend(in): Met dien verstande dat hierdie regulasie nie die student of praktisyn geregtig daarop maak om in die kamer waar die vergadering plaasvind, vergesel te word van enige persoon van wie mondelinge getuienis vereis kan word nie.

Prosedure

16. Waar die student of praktisyn nóg teenwoordig is nóg verteenwoordig word, kan die gesondheidskomitee -
- (a) voortgaan met die ondersoek indien die gesondheidskomitee oortuig is dat in ooreenstemming met regulasie 11 alle redelike pogings aangewend is om die bedoelde kennisgewing te beteken;
 - (b) die student of praktisyn se beweerde gestremdheid oorweeg op grond van die verslae, skriftelike verklarings en ander dokumente wat aan lede ooreenkomstig regulasie 13 beskikbaar gestel is.

Verdaging vir verdere geneeskundige verslae

17. Die gesondheidskomitee kan 'n ondersoek verdaag ten einde die beweerde gestremde student of praktisyn vir 'n mediese ondersoek te verwys en om verdere geneeskundige verslae of ander inligting oor sy of haar liggaamlike of geestestoestand of in verband met sy of haar geskiktheid om te praktiseer, te bekom.

Uitstel van bevinding

18. Die gesondheidskomitee kan na goeë dunnke die maak van 'n bevinding oor die student of praktisyn se gestremdheid of geskiktheid om te praktiseer, uitstel en die voorwaardes van sodanige uitstel spesifiseer.

Besluite van die komitee

19. (1) Die gesondheidskomitee moet 'n bevinding maak oor of die student of praktisyn vanweë sy of haar liggaamlike of geestestoestand gestremd is, al dan nie.
- (2) In die maak van sy bevinding, is die gesondheidskomitee daarop geregtig om as 'n gestremdheid te beskou -

- (a) die student of praktisyn se huidige liggaamlike of geestestoestand;
 - (b) 'n voortdurende of episodiese liggaamlike of geestestoestand; of
 - (c) 'n toestand wat, hoewel tans in remissie, verwag kan word om 'n herhaling van die gestremdheid te veroorsaak.
- (3) Waar 'n student of praktisyn geweier het of, na die oordeel van die gesondheidskomitee, versuim het om hom of haar aan 'n mediese ondersoek bedoel in regulasie 3(1) te onderwerp, kan die gesondheidskomitee bevind dat die student of praktisyn gestremd is op die grondslag van inligting voor die gesondheidskomitee bedoel in regulasie 16(b).
- (4) Indien die gesondheidskomitee bevind dat die student of praktisyn weens sy of haar liggaamlike of geestestoestand gestremd is, moet die gesondheidskomitee oorweeg en bepaal of die student of praktisyn se registrasie en die beoefening van sy of haar beroep voorwaardelik behoort te wees vir die beskerming van pasiënte of in sy of haar eie belang, en wat die aard van sodanige voorwaardes moet wees.
- (5) Indien die gesondheidskomitee van mening is dat dit onvoldoende is om voorwaardes op te lê op die student of praktisyn se registrasie of praktisering van sy of haar beroep, kan die gesondheidskomitee besluit om die registrasie van die student of praktisyn op te kort, en kan besluit wat die tydperk van daardie opskorting en die voorwaardes daarvan sal wees.
- (6) Waar daar in 'n geval wat deur 'n professionele gedragskomitee na die gesondheidskomitee verwys is, 'n bevel deur 'n professionele gedragskomitee vir tussentydse skorsing of tussentydse voorwaardes van registrasie of praktisering gemaak en van krag is, of waar 'n bevel ingevolge hierdie regulasies deur 'n professionele gedragskomitee gegee en van krag is, kan die gesondheidskomitee -
- (a) sodanige bevel intrek; of

- (b) enige voorwaarde van registrasie of praktisering wat deur daardie bevel opgelê is, intrek of wysig.

Kennisgewing van besluite van gesondheidskomitee

20. Nadat die gesondheidskomitee 'n bevinding gemaak het, 'n besluit aanvaar of 'n besluit ingevolge hierdie regulasies gewysig of herroep het, moet die voorsitter die registrateur gelas om die student of praktisyn skriftelik daaroor in te lig asook oor sy of haar reg om teen daardie bevinding, besluit of beide te appelleer.

Gesondheidsondersoekers en gesondheidsassessore

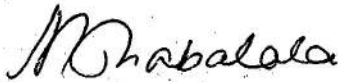
21. By die kies van gesondheidsondersoekers of gesondheidsassessore, met betrekking to bepaalde gevalle, moet die voorsitter of die gesondheidskomitee ag slaan op die aard van die liggaamlike of geestestoestand wat na bewering die student of praktisyn se gestremdheid veroorsaak.

Bevoegdhede van gesondheidskomitee

22. (1) Die gesondheidskomitee kan -
- (a) 'n bevinding maak oor die vraag of 'n student of praktisyn gestremd is of nie, gegrond op 'n beoordeling of ondersoek ingevolge hierdie regulasies;
 - (b) besluit oor die bestuur van 'n student of praktisyn wat bevind is gestremd te wees met die oog op die versekering van pasiëntveiligheid en die behandeling of rehabilitasie van sodanige student of praktisyn; en
 - (c) enige voorwaarde van registrasie of praktisering oplê wat die gesondheidskomitee tersaaklik ag om die oogmerke bedoel in paragraaf (b), te verwesenlik, wat voorwaardes kan insluit met betrekking tot -
 - (i) sy of haar status as geregistreerde persoon;

- (ii) die ligging van sy of haar praktyk;
 - (iii) die omvang van sy of haar praktyk;
 - (iv) toestemming om geskeduleerde middels te hanteer soos die aankoop, verkryging, hou, gebruik, toediening, voorskryf, bestel, voorsiening of besit van enige of alle middels gelys kragtens die Wet op die Beheer van Medisyne en Verwante Stowwe, 1965 (Wet No. 101 van 1965);
 - (v) die verbod op die gebruik of misbruik van afhanklikheidsvormende stowwe gelys in die Regulasies uitgevaardig ingevolge die Wet op die Voorkoming en Behandeling van Dwelmafhanklikheid, 1992 (Wet No. 20 van 1992), soos afgekondig by Goewermentskennisgewing No. R.721 van 30 April 1993, insluitende ander dwelmmiddels as medisyne; en
 - (vi) die versekering en verkryging van behandeling en rehabilitasie vir die gestremde student of praktisyn;
 - (vii) die verkryging van toesig oor die geskiktheid om te praktiseer en werkverrigting van die gestremde student of praktisyn.
- (2) 'n Voorwaarde wat opgelê is deur die gesondheidskomitee op 'n student of praktisyn wat gestremd bevind is, moet onderworpe wees aan -
- (a) verslae wat deur die betrokke terapeut of toesighouer of beide aan die gesondheidskomitee voorgelê moet word op die tye deur die gesondheidskomitee bepaal ten einde te verseker dat die oogmerke bedoel in subregulasie (1) bereik word;
 - (b) hersiening deur die gesondheidskomitee en die posisie van elke gestremde student of praktisyn moet ten minste elke drie jaar aldus hersien word.

- (3) 'n Hersiening van die voorwaardes vir registrasie of praktisering bedoel in subregulasie (2) kan te eniger tyd –
- (a) deur die gestremde student of praktisyn versoek word;
 - (b) deur die gestremde student of praktisyn se toesighouer of terapeut aanbeveel word; of
 - (a) deur die gesondheidskomitee self teweeg gebring word op grond van verslae bedoel in subregulasie (2)(a).



MINISTER VAN GESONDHEID

DATUM: 25. 5. 2001

No. R. 496

8 June 2001

PHARMACY ACT, 1974 (ACT NO. 53 OF 1974)**REGULATIONS RELATING TO THE CONDUCT OF INQUIRIES HELD IN TERMS OF CHAPTER V OF THE ACT**

The Minister of Health has, under section 49(1) of the Pharmacy Act, 1974 (Act No. 53 of 1974), and in consultation with the South African Pharmacy Council, made the regulations in the Schedule.

SCHEDULE**Definitions**

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

"committee of formal inquiry" means a committee appointed by the council in terms of section 4 of the Act to conduct a formal inquiry in terms of Chapter IV of these regulations;

"committee of informal inquiry" means a committee appointed by the council in terms of section 4 of the Act to conduct an informal inquiry in terms of Chapter III of these regulations;

"committee of preliminary investigation" means a committee appointed by the council in terms of section 4 of the Act to conduct a preliminary investigation in terms of Chapter II of these regulations;

"complaint" means any information regarding unprofessional conduct by a person registered in terms of the Act which comes to the attention of the registrar or the council, or a complaint, charge or allegation of unprofessional conduct against such a person;

"consent order" means the finding made and the penalty imposed by the committee of informal inquiry in terms of an agreement between itself, the pro forma complainant and the respondent, as set out in a form substantially corresponding with Annexure A1 to these regulations;

"formal inquiry" means a formal hearing by a committee of formal inquiry to adjudicate a complaint against a person registered in terms of the Act in accordance with Chapter IV of these regulations;

"informal inquiry" means an informal review process by a committee of informal inquiry that allows for a complaint against a person registered in terms of the Act to be resolved by means of negotiation in accordance with Chapter III of these regulations;

"preliminary investigation" means the assessment of a complaint by a committee of preliminary investigation in accordance with Chapter II of these regulations;

"pro forma complainant" means the person appointed in terms of regulation 4(3)(b)(i) or 4(3)(c)(i) by the committee of preliminary investigation to represent the actual complainant and to present the complaint to the committee concerned at an informal inquiry or a formal inquiry;

"respondent" means a person registered in terms of the Act whose conduct is the subject of a preliminary investigation, an informal inquiry or a formal inquiry;

"the Act" means the Pharmacy Act, 1974 (Act No. 53 of 1974).

CHAPTER I

INVESTIGATION OF COMPLAINT

Investigation

2. A complaint must be investigated in accordance with these regulations.

Powers of registrar

3. (1) The registrar may, if he or she has received a complaint in terms of the Act and before referring the complaint to a committee of preliminary investigation –
 - (a) consult with or seek further information regarding the complaint from any person, including the respondent;
 - (b) summon any person whom the registrar on reasonable grounds believes to be in possession of a document, photograph, computer record, contract, book, item,

article, administrative or financial record or computer data relevant to the complaint, in order to make same available to the registrar before the date determined by the registrar in the summons which must substantially correspond with Annexure C to these regulations, for the purpose of investigating the complaint in terms of these regulations;

- (c) apply to a magistrate of the district in which the respondent practices or carries on business as a pharmacist, for a warrant which must substantially correspond with Annexure D to these regulations, authorising an officer or inspector duly appointed by the council in terms of section 4(v) of the Act to -

- (i) enter, either alone or with the assistance of the South African Police Service, the business premises of the respondent or any other premises where business records or medicines belonging to the respondent are kept, which premises must be identified in the warrant;
- (ii) search such premises for unregistered or illegally acquired medicine, statutory records and other documents required to be kept in terms of the Medicines and Related Substances Control Act, 1965, or the Act that are relevant to the complaint; and
- (iii) seize and remove from the business or other premises identified in the warrant such medicines, records or documents, after having compiled a complete inventory of the medicines, records or documents and verified the inventory with a person over the age of sixteen years apparently in control of such business or other premises, leaving, when applicable and practicable, copies of records or documents seized and to be removed with that person;

- (d) seek legal or other advice regarding the complaint.

(2) The registrar must -

- (a) if he or she is of the opinion that the complaint constitutes *prima facie* proof of unprofessional conduct, inform the respondent in writing of the nature of the complaint and furnish such particulars regarding the complaint as are available, and request the respondent to respond, before a date determined by the registrar, in writing to such complaint and give reasons why he or she is of the

opinion that the complaint does not constitute unprofessional conduct, and warn the respondent that his or her written response and reasons may be used as evidence at any subsequent preliminary investigation or informal or formal inquiry;

(b) at the request of the complainant, furnish the complainant with a copy of the respondent's reply if the registrar received a response from the respondent or, in the absence of such request, at his or her discretion.

(3) The registrar must, after having investigated the complaint in terms of subregulation (1) or (2), and whether or not a response was received from the respondent as contemplated in subregulation (2), if he or she is of the opinion that a further inquiry in terms of these regulations would -

(a) not be appropriate, inform the complainant and the respondent accordingly;

(b) be appropriate, refer the matter to a committee of preliminary investigation together with the applicable documents and his or her recommendation as to whether or not the complaint should proceed to an informal inquiry or a formal inquiry.

CHAPTER II

PRELIMINARY INVESTIGATION

Powers of the committee of preliminary investigation

4. (1) A committee of preliminary investigation may, if it has received a complaint in terms of the Act from the registrar -

(a) consult with or seek further information regarding the complaint from any person, including the respondent;

(b) summon any person whom it on reasonable grounds believes to be in possession of a document, photograph, computer record, contract, book, item, article, administrative or financial record or computer data relevant to the complaint, in order to make same available to the committee of preliminary investigation before the date determined by the registrar in the summons, which

must substantially correspond with Annexure C to these regulations, for the purpose of investigating the complaint in terms of these regulations;

(c) apply to a magistrate of the district in which the respondent practices or carries on business as a pharmacist, to obtain a warrant, which must substantially correspond with Annexure D to these regulations, authorising an officer or inspector duly appointed by the council in terms of section 4(v) of the Act to -

(i) enter, either alone or with the assistance of the South African Police Service, the business premises of the respondent or any other premises where business records or medicines belonging to the respondent are kept, which premises must be identified in the warrant;

(ii) search such premises for unregistered or illegally acquired medicine, statutory records and other documents required to be kept in terms of the Medicines and Related Substances Control Act, 1965, or the Act that are relevant to the complaint; and

(iii) seize and remove from the business or other premises identified in the warrant such medicines, records or documents after having compiled a complete inventory of the medicines, records or documents and verified the inventory with a person over the age of sixteen years apparently in control of such business or other premises, leaving, when applicable and practicable, copies of the records or documents seized and to be removed with that person;

(d) seek legal or other advice regarding the complaint.

(2) If the committee of preliminary investigation is of the opinion that the complaint constitutes *prima facie* proof of unprofessional conduct, it must inform the respondent in writing of the nature of the complaint and furnish such particulars regarding the complaint as are available and request the respondent to respond, before a date determined by the committee of preliminary investigation, in writing to such complaint and give reasons why he or she is of the opinion that the complaint does not constitute unprofessional conduct, and warn the respondent that his or her written response and reasons may be used as evidence at any subsequent informal or formal inquiry.

- (3) The committee of preliminary investigation, after having investigated the complaint and after having considered the recommendation of the registrar referred to in regulation 3(3)(b), and whether or not a response was received from the respondent as contemplated in subregulation (2), must -
- (a) if it is of the opinion that a further inquiry in terms of these regulations would not be appropriate, inform the complainant and the respondent accordingly;
 - (b) if it is of the opinion that it would be appropriate to hold an informal inquiry -
 - (i) appoint a pro forma complainant;
 - (ii) prepare a notice in a format substantially corresponding with Annexure A to these regulations which notifies the respondent to attend an informal inquiry at a time, on a date and at a venue indicated by the pro forma complainant in the notice; and
 - (iii) instruct the committee of informal inquiry in writing to hold an informal inquiry at the time, on the date and at the venue indicated by the pro forma complainant in the notice referred to in subparagraph (ii);
 - (c) if it is of the opinion that it would be appropriate to hold a formal inquiry -
 - (i) appoint a pro forma complainant who must have the rights to appoint a legal representative to assist him or her; and
 - (ii) instruct the committee of formal inquiry in writing to hold a formal inquiry.

Factors to be considered by committee of preliminary investigation

5. In deciding whether or not an informal inquiry or a formal inquiry would be appropriate, the committee of preliminary investigation must take into account, amongst other things -
- (a) the nature of the complaint;
 - (b) the consequences of the alleged unprofessional conduct of the respondent for the complainant, the general public, the council, the respondent, the pharmacy profession or any other interested parties;

- (c) the penalty which the committee of preliminary investigation foresees could be imposed by the committee of informal inquiry or the committee of formal inquiry, as the case may be, if the respondent is found guilty of unprofessional conduct.

CHAPTER III INFORMAL INQUIRY

Disqualification of member of committee

6. No person who served on the committee of preliminary investigation in connection with a complaint may serve on a committee of informal inquiry in respect of that complaint.

Pro forma complainant

7. The pro forma complainant appointed in terms of regulation 4(3)(b)(i) must -

- (a) serve a notice as contemplated in regulation 4(3)(b)(ii) on the respondent by registered post addressed to his or her last known registered address, together with any applicable documents not previously furnished to him or her; and
- (b) furnish the members of the committee of informal inquiry with a copy of the notice and copies of all the applicable documents.

The respondent

8. The respondent may -

- (a) if he or she agrees with the contents of the proposed consent order, which must be attached to the notice referred to in regulation 7, complete and sign it before a commissioner of oaths and return it to the committee of informal inquiry before the date of the informal inquiry, in which case the committee of informal inquiry will, on the date scheduled for such inquiry, make the proposed consent order the final consent order; or
- (b) if he or she disagrees with the contents of the proposed consent order, which must be attached to the notice referred to in regulation 7, and prefers to present his or her case to the committee of informal inquiry -

- (i) complete a form substantially corresponding with Annexure A2 to these regulations and sign and return it to the committee of informal inquiry before the date on which the informal inquiry is scheduled to take place; and
 - (ii) appear in person at the informal inquiry to -
 - (aa) hand in written submissions to the committee of informal inquiry; or
 - (bb) lead oral evidence; or
 - (cc) present argument;
- in order to amend the contents of the proposed consent order; or
- (c) if he or she prefers the complaint to be adjudicated by a committee of formal inquiry, complete a form substantially corresponding with Annexure A3 to these regulations and sign and return it to the committee of informal inquiry before the date on which the informal inquiry is scheduled to take place, in which case the matter must, on the date scheduled for the inquiry, be referred to a committee of formal inquiry to be dealt with in accordance with the procedure set out in Chapter IV of these regulations.

Respondent's failure to exercise an option

9. If the respondent fails to exercise any of the options referred to in regulation 8 or fails to respond to the notice referred to in regulation 4(3)(b)(ii), the committee of informal inquiry must refer the matter to a committee of formal inquiry to adjudicate the complaint in accordance with the procedure set out in Chapter IV of these regulations.

Terms of reference of committee of informal inquiry

10. On the date determined for an informal inquiry, the committee of informal inquiry must -
- (a) if the respondent has agreed to the proposed consent order as contemplated in regulation 8(a), make the proposed consent order a final consent order, confirming the finding and the penalty, and instruct the pro forma complainant to inform the respondent accordingly;

- (b) if the respondent **has elected** to proceed in terms of regulation 8(b), proceed to hold an informal inquiry;
- (c) if the respondent **has elected** to proceed in terms of regulation 8(c), refer the matter to a committee of **formal inquiry** to be dealt with in accordance with the procedure set out in Chapter IV of these regulations.

Summons of witnesses

11. (1) The pro forma complainant and the respondent may request the registrar to summon as witness all persons **whom they wish** to testify on their behalf at the informal inquiry, by means of a summons **substantially** corresponding with Annexure C to these regulations.
- (2) If witnesses are **summoned** at the instance of the respondent, the registrar may require the respondent to **deposit** with the council a sum of money which is sufficient to cover the fees and expenses **referred to** in subregulation (3).
- (3) The party at whose **request** a witness is summoned to appear and give testimony at an informal inquiry is **liable to pay** fees according to the tariff applicable to civil cases in a Magistrate's Court and **compensate** such witness for any reasonable expenses which he or she may have **incurred** in order to attend the informal inquiry.

Format of inquiry

12. (1) The informal inquiry **must take** the form of an inquisitorial investigation and the pro forma complainant and the respondent must be given an opportunity to present their respective cases by means of **written submissions**, oral evidence or argument.
- (2) Neither the **pro forma complainant** nor the respondent is entitled to legal representation at the informal inquiry.

Findings by committee of informal inquiry

13. (1) The committee of **informal inquiry**, at the completion of an informal inquiry, must -
- (a) if it is able to **negotiate** a consent order acceptable to the pro forma complainant, the respondent and itself -

- (i) draft a consent order as agreed upon, set out in a form substantially corresponding with Annexure A1 to these regulations;
 - (ii) request the respondent and the pro forma complainant to sign the consent order;
 - (iii) make a finding; and
 - (iv) impose the penalty agreed upon in the consent order;
- (b) if it is unable to negotiate a consent order acceptable to the pro forma complainant, the respondent and itself, instruct a committee of formal inquiry in writing to hold a formal inquiry into the complaint against the respondent.
- (2) No consent order contemplated in subregulation (1) constitutes a previous conviction in any subsequent inquiry into a complaint against the respondent in terms of these regulations.

CHAPTER IV FORMAL INQUIRY

Disqualification of member of committee

14. No person who served on the committee of preliminary investigation or the committee of informal inquiry in connection with a complaint may serve on a committee of formal inquiry in respect of that complaint.

Pro forma complainant

15. (1) Once a committee of preliminary investigation or a committee of informal inquiry has referred a complaint to a committee of formal inquiry, the pro forma complainant must -
- (a) determine a date, time and venue for the formal inquiry;
 - (b) prepare a notice in a format substantially corresponding with Annexure B to these regulations which notifies the respondent to attend a formal inquiry at a time, on a date and at a venue indicated by the pro forma complainant in the notice; and

(c) inform the members of the committee of formal inquiry accordingly and furnish them with copies of the notice and all applicable documents.

(2) The notice referred to in subregulation (1)(b) must be served on the respondent personally or by registered post at his or her last known registered address.

(3) The pro forma complainant and the respondent may request the registrar to summon as witness all persons whom they wish to testify on their behalf at the formal inquiry, by means of a summons substantially corresponding with Annexure C to these regulations.

(4) If witnesses are summoned at the instance of the respondent, the registrar may require the respondent to deposit with the council a sum of money which is sufficient to cover the fees and expenses referred to in subregulation (5).

(5) The party at whose request a witness is summoned to appear and give testimony at a formal inquiry is liable to pay fees according to the tariff applicable to civil cases in a Magistrate's Court and compensate such witness for any reasonable expenses which he or she may have incurred in order to attend the formal inquiry.

Appointment of chairperson

16. The committee of formal inquiry must appoint one of their number a chairperson.

Procedure at formal inquiry

17. At a formal inquiry the following procedure must be followed:

(a) The pro forma complainant must read out the notice addressed to the respondent, unless the respondent is absent or the respondent or his or her legal representative indicates that it is not required.

(b) If the respondent is present or represented by a legal representative, the chairperson must ask the respondent or his or her legal representative to plead guilty or not guilty to the charge, and the plea must be recorded.

(c) If the respondent, or his or her legal representative, refuses or fails to plead directly to any charge, the committee of formal inquiry must record a plea of not guilty on behalf of

the respondent and a plea so recorded has the same effect as if it had actually been pleaded.

(d) If the respondent, or his or her legal representative, is not present at the formal inquiry, the committee of formal inquiry must proceed in the respondent's absence and record a plea of not guilty, unless the respondent has, in writing, pleaded guilty to the charge against him or her, in which case the committee must record same as the respondent's plea.

(e) If the respondent is neither present nor represented, the written defence, statement(s) or explanations made by him or her or on his or her behalf before the formal inquiry, if any, constitute his or her defence and must be submitted by the pro forma complainant to the committee of formal inquiry.

Procedure after plea of guilty

18. If a plea of guilty is entered and the committee of formal inquiry is of the opinion that further information is required for purposes of making a finding as to whether the complaint constitutes unprofessional conduct on the part of the respondent, it may call any witness summoned on behalf of the pro forma complainant or the respondent to give oral evidence under oath or affirmation and may accept such documentary evidence relevant to the complaint as it deems necessary, before making a finding.

Procedure after plea of not guilty

19. (1) If a respondent pleads not guilty, first the pro forma complainant and then the respondent may lead evidence in support of the complaint and the defence, respectively.
- (2) After a witness has testified, the other party may cross-examine the witness.
- (3) The chairperson of the committee of formal inquiry -
- (a) may put questions to any witness called on behalf of or by the *pro forma* complainant or the respondent and allow other members of the committee of formal inquiry to put questions to such a witness;

- (b) must, before re-examination of the witness by the party who called that witness, allow further cross-examination arising from questions put by the chairperson and other members; and
- (c) must, after the cross-examination referred to in subregulation (3)(b), allow the party who called the witness an opportunity to re-examine the witness on matters raised in cross-examination or with regard to questions put to that witness by the chairperson or other members of the committee of formal inquiry.

Further evidence

20. (1) The committee of formal inquiry may, after the parties have closed their cases -
- (a) allow further evidence to be led;
 - (b) recall any witness who has testified.
- (2) The respondent and the pro forma complainant, or their legal representatives, may cross-examine any witness who has testified as contemplated in subregulation (1).

Procedure after evidence has been led

21. After all evidence has been led -
- (a) the pro forma complainant may address the committee of formal inquiry on the evidence and the legal position;
 - (b) the respondent or his or her legal representative may thereafter address the committee of formal inquiry; and
 - (c) the pro forma complainant may reply to the arguments raised by or on behalf of the respondent.

Evidence and affidavits

22. (1) All oral evidence must be taken under oath or affirmation by the chairperson of the committee of formal inquiry.

- (2) Evidence by way of affidavit must be admissible in terms of the Civil Proceedings Evidence Act, 1965 (Act No. 25 of 1965), or any common-law principle applicable to civil litigation.
- (3) The record, or any part thereof, of a lawfully constituted court, inquest or statutory body will be *prima facie* evidence if it has been certified to be a true copy: Provided that if it is practicable and appears just, the committee of formal inquiry may call a witness whose evidence appears in such record to give evidence at the formal inquiry.

Findings by the committee of formal inquiry

23. (1) Any decision by the committee of formal inquiry with regard to any point arising in connection with, or in the course of, an inquiry must be communicated to the persons concerned during that inquiry.
- (2) Upon the conclusion of the formal inquiry, the committee of formal inquiry must deliberate *in camera* on a finding.
- (3) If a respondent is found not guilty of the complaint lodged against him or her, he or she must be informed accordingly forthwith and the committee of formal inquiry must report its finding to the council.
- (4) If the committee of formal inquiry determines that sufficient facts were presented during the formal inquiry to prove the complaint on a balance of probabilities, it must decide whether the complaint as proved constitutes unprofessional conduct, and it must announce its finding at an open meeting.
- (5) If a respondent is found guilty by the committee of formal inquiry, the pro forma complainant must adduce evidence of previous convictions, excluding a finding or penalty imposed by a committee of informal inquiry, of the respondent under the Act, if such convictions have been recorded against the name of the respondent in the records of the registrar: Provided that notice of the intention to do so was given to the respondent by the pro forma complainant prior to the commencement of the inquiry.
- (6) Evidence of previous convictions referred to in subregulation (5) must be adduced by means of a certificate under the hand of the registrar indicating the nature of the complaint against the respondent at the time, the finding, the date of such finding and the penalty imposed.

- (7) The respondent may challenge the correctness of a certificate referred to in subregulation (6), in which case a copy of the relevant record in the possession of the registrar and the minutes of the meeting of the council at which the finding and the penalty were confirmed or reported must be produced, after which the fact of conviction must be regarded as conclusively proved.

Mitigation of penalty

24. (1) The respondent may, after proof of previous convictions by the pro forma complainant, if any, address the committee of formal inquiry or adduce evidence, either orally or in writing, in mitigation of the penalty to be imposed.
- (2) Any witnesses called in mitigation may be questioned by the members of the committee of formal inquiry and the pro forma complainant.
- (3) The pro forma complainant may, after the respondent has addressed the committee of formal inquiry or adduced evidence in mitigation of the penalty to be imposed, make representations to the committee of formal inquiry or lead evidence, orally or in writing, regarding a suitable penalty to be imposed.
- (4) If the respondent is neither present nor represented, any written representation, statement or explanation made by him or her or on his or her behalf, that has a bearing on a suitable penalty, must be taken into account by the committee of formal inquiry.

Penalty and cost order

25. (1) The committee of formal inquiry must deliberate *in camera* on the penalty to be imposed and the cost order, as contemplated in section 40(3) of the Act, to be made.
- (2) The chairperson of the committee of formal inquiry must announce the finding, the penalty imposed and the cost order made, if applicable, at an open meeting.
- (3) The committee of formal inquiry must report its finding, the penalty imposed and the cost order made, if any, to the council.

Publication in Gazette

26. The registrar must arrange for the publication, in any one of the official languages in the *Gazette* and in the council's report, of the name of the respondent, a summary of the complaint of which he or she has been found guilty, and the penalty which has been imposed.

Assessors and legal advisers

27. The committee of formal inquiry may appoint and remunerate a person with experience in the administration of justice to be present at any inquiry –
- (a) as an assessor, or
 - (b) to advise the committee of formal inquiry on matters of law, procedure and evidence.

Adjournment of proceedings

28. The committee of formal inquiry may, of its own accord or at the request of the pro forma complainant or of the respondent or his or her legal representative, adjourn any inquiry being held in terms of these regulations to be resumed on such date and at such time and place as the committee of formal inquiry may determine or as the registrar may by registered post communicate to the parties concerned.

CHAPTER V**GENERAL****Powers of council**

29. Nothing in these regulations shall be construed as divesting the council of the right and power to deal with any complaint without referring it to a committee of preliminary investigation, of informal inquiry or of formal inquiry.
30. The council may, if it has received a complaint of unprofessional conduct against a person registered with council in terms of the Act, apply to a magistrate of the district in which the respondent practices or carries on business as a pharmacist, to obtain a warrant which substantially corresponds with Annexure D to these regulations, authorising an officer or inspector duly appointed by the council in terms of section 4(v) of the Act to -

- (a) enter, either alone or with the assistance of the South African Police Services, the business premises of the respondent or any other premises where business records or medicines belonging to the respondent are kept, which premises must be identified in the warrant;
- (b) search on such premises for unregistered or illegally acquired medicine, statutory records and other documents required to be kept in terms of the Medicines and Related Substances Control Act, 1965, or the Act that are relevant to the complaint; and
- (c) seize and remove from the business or other premises identified in the warrant such medicines, records or documents, after having compiled a complete inventory of the medicines, records or documents and verified the inventory with a person over the age of sixteen years apparently in control of such business or other premises, leaving, when applicable and practicable, copies of the records or documents seized and to be removed with that person.

Inquiries that commenced prior to these regulations

31. A disciplinary inquiry in terms of the regulations promulgated under Government Notice No. R. 353 of 2 March 1984 that commenced before a disciplinary committee immediately prior to the commencement of these regulations, must be conducted according to the procedures prescribed by the first-mentioned regulations as if they have not been repealed.

Repeal

32. The regulations promulgated under Government Notice No. R. 353 of 2 March 1984 are hereby repeated.

Mabalela

MINISTER OF HEALTH

DATE: 25.5.2001

ANNEXURE A

THE SOUTH AFRICAN PHARMACY COUNCIL

Case No:

In the matter between:

The pro forma complainant

and

..... (hereinafter referred to as "the respondent")

NOTICE TO ATTEND INFORMAL INQUIRY

1. The respondent is hereby summoned to appear before the committee of informal inquiry of the South African Pharmacy Council at (time) on (date), Third Floor, SA Pharmacy Council Building, 591 Belvedere Street, Arcadia, Pretoria, to answer to the following complaint(s):

.....

[Add particulars of complaint(s)]

2. The respondent may exercise one of the following options:

(a) Consent to finding and penalty

The respondent is entitled to consent to the committee of informal inquiry making the finding and imposing the penalty proposed in Annexure A1 by signing it before a commissioner of oaths and returning it to the pro forma complainant at the address indicated in Annexure A1, to reach the pro forma complainant before (date).

In the event of the respondent electing to consent to the proposed finding and penalty proposed in Annexure A1, and if such penalty involves the payment of a fine, the respondent must submit one of the following, together with Annexure A1, to the pro forma complainant at the address indicated in Annexure A1:

- (i) Proof of payment (copy of deposit slip / electronic bank transfer) into the following account of the South African Pharmacy Council:

Bank:

Branch:

Branch code:

Account number:

- (ii) postal order or cheque;

- (iii) credit card authorization; or

- (iv) a written request to pay the fine and/or the costs indicated in Annexure A1 in instalments.

(b) Notice of intention to appear at informal inquiry

The respondent is entitled to give notice in the form of Annexure A2 that he or she shall attend the informal inquiry in person at the appointed time and date to avail himself or herself of his or her rights in terms of Chapter III of the regulations relating to the conduct of inquiries held in terms of Chapter V of the Pharmacy Act, 1974 (Act No. 53 of 1974) (hereinafter referred to as "the Regulations" and "the Act", respectively), a copy of which is attached hereto.

Please note that, in terms of regulation 12 of the Regulations, neither the pro forma complainant nor the respondent is entitled to legal representation at the informal inquiry.

(c) Notice of intention to appear at formal inquiry

The respondent is entitled to give notice in the form of Annexure A3 that he or she wishes to attend the committee of formal inquiry at the appointed time and date to avail himself or herself of his or her rights in terms of Chapter IV of the regulations, a copy of which is attached hereto.

Please note that both the pro forma complainant and the respondent are entitled to legal representation at the formal inquiry.

General information regarding the options listed in paragraph 2

- (i) In the event of the respondent electing to consent to the proposed finding and penalty referred to in paragraph 2(a), the committee of informal inquiry must, on the date set for the informal inquiry, make the finding and impose the penalty determined in Annexure A1: Provided that such finding does not constitute a previous conviction for purposes of regulation 13(2) of the Regulations in any subsequent inquiry into unprofessional conduct by the respondent.
- (ii) In the event of the respondent electing to appear at the informal inquiry referred to in paragraph 2(b), the committee of informal inquiry must, on the date set for the informal inquiry -
 - (aa) deal with the complaint(s) in accordance with the procedure determined in Chapter III of the Regulations;
 - (bb) make a finding on whether the facts proved to its satisfaction constitute unprofessional conduct;
 - (cc) impose one of the penalties prescribed in section 45(1) of the Act if it finds that the facts proved constitute unprofessional conduct;
 - (dd) make an order as to costs in terms of section 40(3) of the Act; or
 - (ee) refer the matter for a formal inquiry by the committee of formal inquiry.
- (iii) In the event of the respondent electing to proceed to a formal inquiry referred to in paragraph 2(c), the committee of informal inquiry must, on the date set for the informal inquiry, instruct the committee of formal inquiry to hold a formal inquiry on the date, time and place in connection with such complaint(s) as the pro forma complainant may decide, of which the respondent will in due course be notified.

- (iv) In the event of the respondent failing to respond to this notice or to exercise an option referred to in paragraphs 2(a) to (c), the committee of informal inquiry must, on the date set for the informal inquiry, refer the matter to the committee of formal inquiry to adjudicate the complaint in accordance with the procedure determined in Chapter IV of the Regulations.
3. The respondent is herewith referred to the provisions of section 45B of the Act regarding the recovery of fines and cost orders.

Issued at Pretoria onby the pro forma complainant

Pro forma complainant

ANNEXURE A1

THE SOUTH AFRICAN PHARMACY COUNCIL

Case No.:

In the matter between:

The pro forma complainant

and

..... (hereinafter referred to as "the respondent")

CONSENT ORDER

1. I, the undersigned
..... (full names),
identity number:,

residing at:
.....
.....
.....

hereby consent to the committee of informal inquiry -

- (a) finding that the conduct with which I have been charged constitutes unprofessional conduct on my behalf in my capacity as a pharmacist;
- (b) imposing the following penalty:

.....
.....
.....

(c) making the following cost order:

"The respondent is ordered to pay the following costs:

Notice	R.....
Informal inquiry costs	R.....
Total:	R....."

2. I attach hereto -

- ☐ proof of direct payment into the bank account of the South African Pharmacy Council;
- ☐ postal order / cheque; or
- ☐ authorization for the registrar of the South African Pharmacy Council to debit my credit card, account number

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

VISA ☐ MASTER ☐

Expiry date :

--	--	--

Signed at on

Respondent

Signed at on by the respondent before me in my capacity as commissioner of oaths, after having satisfied myself as to the identity of the signatory and of the fact that the respondent knows and understands the contents of this document and the effect thereof.

Commissioner of oaths

Note: This consent order is to be submitted by the respondent to the pro forma complainant at the following address:

Full names:

Physical address:

Telephone No.: ()

ANNEXURE A2

THE SOUTH AFRICAN PHARMACY COUNCIL

Case No.:

In the matter between:

The *pro tem* complainant

and

.....(hereinafter referred to as "the respondent")

NOTICE OF INTENTION TO APPEAR AT INFORMAL INQUIRY

1. Take note that the respondent intends to appear in person before the committee of informal inquiry of the South African Pharmacy Council at (time) on (date), Third Floor, S A Pharmacy Council Building, 591 Belvedere Street, Arcadia, Pretoria, to present his or her defence.

2. Further note that the respondent intends calling the following witnesses in terms of regulation 11:

Full Names	Postal Address	Physical Address	Telephone Number
1.			
2.			
3.			

and requests the registrar to summon these witnesses.

Signed at on

Respondent

Note: This notice is to be submitted by the respondent to:

- (a) The Committee of Informal Inquiry
The South African Pharmacy Council
PO Box 40040
Arcadia
0007

AND

- (b) The Pro Forma complainant
PO Box 40040
Arcadia
0007

ANNEXURE A3

THE SOUTH AFRICAN PHARMACY COUNCIL

Case No.:

In the matter between:

The pro forma complainant

and

.....(hereinafter referred to as "the respondent")

NOTICE OF INTENTION TO PROCEED TO FORMAL INQUIRY

The respondent hereby requests the committee of informal inquiry to refer the complaint to the committee of formal inquiry in terms of Chapter IV of the Regulations relating to the conduct of inquiries held in terms of Chapter V of the Pharmacy Act, 1974 (Act No. 53 of 1974).

Signed at on

Respondent

Note: This notice is to be submitted by the respondent to:

- (a) The Committee of Informal Inquiry
The South African Pharmacy Council
PO Box 40040
Arcadia
0007

AND

- (b) The Pro Forma Complainant
PO Box 40040
Arcadia
0007

ANNEXURE B

THE SOUTH AFRICAN PHARMACY COUNCIL

Case No.:

In the matter between:

The pro forma complainant

and

.....(hereinafter referred to as "the respondent")

NOTICE TO RESPONDENT TO ATTEND FORMAL INQUIRY

You are hereby notified that the South African Pharmacy Council (hereinafter referred to as "the council") or the committee of formal inquiry of the council intends to hold an inquiry on the day of at (time), at (address), at which time and place the following complaint(s) which has(have) been brought against you will be considered:

"That you, being a pharmacist duly registered in terms of the Pharmacy Act, 1974 (Act No. 53 of 1974) (hereinafter referred to as "the Act"), are guilty of unprofessional conduct in that you

.....
....."

In terms of section 40(2) of the Act you are entitled to attend the inquiry and to answer to the charge and to be heard in your defence, either by yourself or through your legal representative. Should you fail to appear, the council or the committee of formal inquiry may consider and deal with the complaint(s) in accordance with Chapter IV of the regulations relating to the conduct of inquiries held in terms of Chapter V of the Act.

Should you wish your letter dated, or any further written communication which you wish to make, to constitute your explanation or defence, please inform me in writing to that effect as soon as possible, but not later than, and you are hereby also warned that any such communication may be used in evidence.

A copy of the Regulations is enclosed.

Given on at by the pro forma complainant.

Pro forma complainant

ANNEXURE C

THE SOUTH AFRICAN PHARMACY COUNCIL

Case No.:

In the matter between:

The pro forma complainant

and

.....(hereinafter referred to as "the respondent")

SUMMONS TO APPEAR BEFORE THE COMMITTEE OF PRELIMINARY INVESTIGATION OR THE COMMITTEE OF INFORMAL INQUIRY OR THE COMMITTEE OF FORMAL INQUIRY OF THE SOUTH AFRICAN PHARMACY COUNCIL, AND/OR TO PRODUCE DOCUMENTARY EVIDENCE IN TERMS OF THE REGULATIONS RELATING TO THE CONDUCT OF INQUIRIES HELD IN TERMS OF CHAPTER V OF THE PHARMACY ACT, 1974 (ACT NO. 53 OF 1974)

Witness's (postal or physical) address:

You, (name of witness),
are hereby summoned to -

- (a) appear at (time) on (date) at
..... (place) before the committee of
preliminary investigation or the committee of informal inquiry or the committee of formal inquiry of
the South African Pharmacy Council (hereinafter referred to as "the council"), established in terms
of the Pharmacy Act, 1974 (Act No. 53 of 1974), to give or produce evidence at an investigation
by the committee of preliminary investigation or at an inquiry by the committee of informal inquiry
or the committee of formal inquiry;

- (b) submit to the registrar before (date) all documents, photographs, computer records, contracts, books, items, articles, administrative or financial records or computer data.

Given on..... (date) at (place) under the hand of the registrar of the council.

REGISTRAR

Official Seal

ANNEXURE D

WARRANT FOR SEARCH AND SEIZURE

TO THE REGISTRAR OF THE SOUTH AFRICAN PHARMACY COUNCIL

WHEREAS it appears from information under oath that there are reasonable grounds for believing that (name),
(hereinafter referred to as "the respondent") has contravened section(s)
..... [specify statutory provision(s)] or is guilty of unprofessional
conduct, to wit
and the respondent's conduct is the subject of a preliminary investigation, an informal inquiry or a formal
inquiry in terms of the regulations made under section 49(1) of the Pharmacy Act, 1974 (Act No. 53 of
1974); and

WHEREAS there are reasonable grounds for believing that there are on certain premises, to wit
....., within the magisterial district of
....., certain medicines, records or documents connected with
the alleged contravention of the said provision(s) or alleged unprofessional conduct, namely
....., which is/are required as evidence in the preliminary
investigation or at the informal inquiry or the formal inquiry,

an officer or inspector duly appointed by the South African Pharmacy Council in terms of section 4(v) of
the said Act is hereby authorised to, during the day, enter and search the above-mentioned premises and
to seize any medicines, records or documents mentioned herein.

GIVEN under my hand at on this
of2.....

DATE STAMP

.....
SIGNATURE: MAGISTRATE

WET OP APTEKERS, 1974 (WET NO. 53 VAN 1974)**REGULASIES BETREFFENDE DIE HOU VAN ONDERSOEKE KRAGTENS HOOFSTUK V VAN DIE WET**

Die Minister van Gesondheid het kragtens artikel 49(1) van die Wet op Aptekers, 1974 (Wet No. 53 van 1974), en in ooreenstemming met die Suid-Afrikaanse Aptekersraad, die regulasies in die Bylae uitgevaardig.

BYLAE**Woordomskrywings**

1. In hierdie regulasies het enige uitdrukking waaraan 'n betekenis in die Wet geheg is, daardie betekenis en, tensy uit die samehang anders blyk, beteken -

"die Wet" die Wet op Aptekers, 1974 (Wet No. 53 van 1974);

"formele ondersoek" die formele aanhoor deur 'n komitee van formele ondersoek van 'n klagte teen 'n persoon kragtens die Wet geregistreer, om dit te bereg ooreenkomstig Hoofstuk IV van hierdie regulasies;

"informele ondersoek" 'n informele evalueringsproses deur 'n komitee van informele ondersoek wat daarvoor voorsiening maak dat 'n klagte teen 'n persoon kragtens die Wet geregistreer, deur middel van onderhandeling ooreenkomstig Hoofstuk III van hierdie regulasies besleg word;

"klagte" enige inligting rakende onprofessionele gedrag deur 'n persoon kragtens die Wet geregistreer wat onder die aandag van die registrateur of die raad kom of 'n klagte, beskuldiging of bewering van onprofessionele gedrag teen so 'n persoon;

"komitee van formele ondersoek" 'n komitee deur die raad kragtens artikel 4 van die Wet aangestel om 'n formele ondersoek kragtens Hoofstuk IV van hierdie regulasies te doen;

"komitee van informele ondersoek" 'n komitee deur die raad kragtens artikel 4 van die Wet aangestel om 'n informele ondersoek kragtens Hoofstuk III van hierdie regulasies te doen;

"komitee van voorlopige ondersoek" 'n komitee deur die raad kragtens artikel 4 van die Wet aangestel om 'n voorlopige ondersoek kragtens Hoofstuk II van hierdie regulasies te doen;

"pro forma-klaer" die persoon kragtens regulasie 4(3)(b)(i) of 4(3)(c)(i) deur die komitee van voorlopige ondersoek aangestel om die werklike klaer te verteenwoordig en om by 'n informele ondersoek of formele ondersoek die klagte aan die betrokke komitee te stel;

"respondent" 'n persoon kragtens die Wet geregistreer wie se gedrag die onderwerp van 'n voorlopige ondersoek, 'n informele ondersoek of 'n formele ondersoek is;

"toestemmingsbevel" die bevinding gemaak en die straf opgelê deur die komitee van informele ondersoek kragtens 'n ooreenkoms tussen die komitee, die pro forma-klaer en die respondent soos uiteengesit in 'n vorm wat wesenslik ooreenkom met Aanhangsel A1 van hierdie regulasies;

"voorlopige ondersoek" die evaluering van 'n klagte deur 'n komitee van voorlopige ondersoek ooreenkomstig Hoofstuk II van hierdie regulasies.

HOOFSTUK I

ONDERSOEK VAN KLAGTE

Ondersoek

2. 'n Klagte moet ooreenkomstig hierdie regulasies ondersoek word.

Bevoegdhede van registrateur

3. (1) Die registrateur kan, indien hy of sy 'n klagte ingevolge die Wet ontvang en voordat 'n klagte na 'n komitee van voorlopige ondersoek verwys word -
- (a) betreffende die klagte oorleg pleeg met of verdere inligting inwin van enige persoon, insluitende die respondent;
 - (b) enige persoon dagvaar wat die registrateur op redelike gronde meen in besit is van 'n dokument, foto, rekenaarrekord, kontrak, boek, item, artikel, administratiewe of finansiële rekord of rekenaardata in verband met die klagte,

om dit aan die registrateur voor te lê voor die datum bepaal deur die registrateur in die dagvaarding, wat wesenlik met Aanhangsel C van hierdie regulasies moet ooreenstem, vir doeleindes van die ondersoek van 'n klagte kragtens hierdie regulasies;

(c) by 'n landdros van die distrik waarin die respondent praktiseer of as 'n apteker sake doen, aansoek doen om 'n lasbrief, wat wesenlik met Aanhangsel D van hierdie regulasies moet ooreenstem, wat 'n beamppte of inspekteur behoorlik deur die raad ingevolge artikel 4(v) van die Wet aangestel, magtig om -

(i) alleen of met die bystand van die Suid-Afrikaanse Polisie diens, die sakeperseel van die respondent of enige ander perseel betree waar sakerekords of medisyne wat aan die respondent behoort, gehou word, welke perseel in die lasbrief geïdentifiseer moet word;

(ii) sodanige perseel te deursoek vir ongeregistreerde medisyne of medisyne wat wederregtelik bekom is, statutêre rekords en ander dokumente wat ingevolge die Wet op die Beheer van Medisyne en Verwante Stowwe, 1965, of die Wet gehou moet word wat betrekking het op die klagte; en

(iii) op sodanige medisyne, rekords of dokumente beslag te lê en dit van die sake- of ander perseel in die lasbrief geïdentifiseer, te verwyder nadat 'n volledige inventaris van sodanige medisyne, rekords of dokumente opgestel is en nagegaan is met 'n persoon ouer as 16 jaar wat oënskynlik in beheer van sodanige sake- of ander perseel is en, wanneer toepaslik en doenlik, afskrifte van rekords of dokumente waarop beslag gelê is en wat verwyder gaan word, by sodanige persoon gelaat is;

(d) regs- of ander advies betreffende die klagte inwin.

(2) Die registrateur moet -

(a) indien hy of sy van mening is dat die klagte *prima facie* bewys van onprofessionele gedrag uitmaak, die respondent skriftelik van die aard van die klagte inlig, en sodanige besonderhede betreffende die klagte verstrek as wat beskikbaar is, en die respondent versoek om, voor 'n datum deur die registrateur bepaal, skriftelik op sodanige klagte te antwoord en redes te verstrek waarom hy

of sy van mening is dat die klagte nie onprofessionele gedrag uitmaak nie, en die respondent waarsku dat sy of haar skriftelike antwoord en redes as getuienis by enige latere voorlopige ondersoek, informele ondersoek of formele ondersoek gebruik kan word;

(b) op die versoek van die klaer 'n afskrif van die respondent se antwoord aan die klaer verskaf indien die registrateur 'n antwoord van die respondent ontvang het of, by afwesigheid van sodanige versoek, na goeddunke;

(3) Die registrateur moet, nadat hy of sy die klagte kragtens subregulasie (1) of (2) ondersoek het, ongeag of 'n antwoord soos in subregulasie (2) bedoel van die respondent ontvang is al dan nie indien hy of sy van mening is dat 'n verdere ondersoek kragtens hierdie regulasies -

(a) nie gepas is nie, die klaer en die respondent dienooreenkomstig inlig;

(b) gepas is, die aangeleentheid na 'n komitee van voorlopige ondersoek verwys, tesame met die tersaaklike dokumente, en sy of haar aanbeveling of die klagte na 'n informele of 'n formele ondersoek moet oorgaan, al dan nie.

HOOFSTUK II

VOORLOPIGE ONDERSOEK

Bevoegdhede van die komitee van voorlopige ondersoek

4. (1) Die komitee van voorlopige ondersoek kan, indien hy 'n klagte ingevolge die Wet van die registrateur ontvang -

(a) betreffende die klagte oorleg pleeg met of verdere inligting inwin van enige persoon, insluitende die respondent;

(b) enige persoon dagvaar wat die komitee op redelike gronde meen in besit is van 'n dokument, foto, rekenaarrekord, kontrak, boek, item, artikel, administratiewe of finansiële of rekenaardata in verband met die klagte om dit aan die komitee van voorlopige ondersoek voor te lê voor die datum bepaal deur die registrateur in die dagvaarding, wat wesenlik met Aangangsel C van hierdie regulasies moet ooreenstem, vir doeleindes van die ondersoek van 'n klagte kragtens hierdie regulasies;

(c) by 'n landdros van die distrik waarin die respondent praktiseer of as 'n apteker sake doen, aansoek doen om 'n lasbrief, wat wesenlik met Aanhangsel D van hierdie regulasies moet ooreenstem, wat 'n beampte of inspekteur behoorlik deur die raad ingevolge artikel 4(v) van die Wet aangestel, magtig om -

(i) alleen of met die bystand van die Suid-Afrikaanse Polisie, die sakeperseel van die respondent of enige ander perseel te betree waar sakerekords of medisyne wat aan die respondent behoort, gehou word, welke perseel in die lasbrief geïdentifiseer moet word;

(ii) sodanige perseel te deursoek vir ongeregistreerde medisyne of medisyne wat wederregtelik bekom is, statutêre rekords en ander dokumente wat ingevolge die Wet op die Beheer van Medisyne en Verwante Stowwe, 1965, of die Wet gehou moet word wat betrekking het op die klagte; en

(iii) op sodanige medisyne, rekords of dokumente beslag te lê en dit van die sake- of ander perseel in die lasbrief geïdentifiseer, te verwyder nadat 'n volledige inventaris van sodanige medisyne, rekords of dokumente opgestel is en nagegaan is met 'n persoon ouer as 16 jaar wat oënskynlik in beheer van sodanige sake- of ander perseel is en, wanneer toepaslik en doenlik, afskrifte van rekords of dokumente waarop beslag gelê is en wat verwyder gaan word, by sodanige persoon gelaat is;

(d) regs- of ander advies betreffende die klagte inwin.

(2) Die komitee van voorlopige ondersoek moet, indien hy van mening is dat die klagte *prima facie* bewys van onprofessionele gedrag uitmaak, die respondent skriftelik van die aard van die klagte inlig en sodanige besonderhede betreffende die klagte verstrek as wat beskikbaar is, en die respondent te versoek om, voor 'n datum deur die komitee bepaal, skriftelik op sodanige klagte te antwoord en redes te verstrek waarom hy of sy van mening is dat die klagte nie onprofessionele gedrag uitmaak nie, en die respondent waarsku dat sy of haar skriftelike antwoord en redes as getuienis by enige latere informele ondersoek of formele ondersoek gebruik kan word.

- (3) Die komitee van voorlopige ondersoek moet, nadat hy die klagte ondersoek het en die aanbeveling van die registrateur in regulasie 3(3)(b) bedoel oorweeg het, ongeag of 'n antwoord soos in subregulasie (2) bedoel van die respondent ontvang is al dan nie -
- (a) indien hy van mening is dat 'n verdere ondersoek kragtens hierdie regulasies nie gepas is nie, die klaer en die respondent dienoreenkomstig inlig;
 - (b) indien hy van mening is dat dit gepas is om 'n informele ondersoek te hou -
 - (i) 'n pro forma-klaer aanstel;
 - (ii) 'n kennisgewing in 'n formaat wat wesenlik met Aanhangsel A van hierdie regulasies ooreenstem, opstel wat die respondent in kennis stel om 'n informele ondersoek by te woon op 'n tyd, datum en plek deur die pro forma-klaer in die kennisgewing aangedui; en
 - (iii) die komitee van informele ondersoek skriftelik gelas om 'n informele ondersoek te hou op 'n tyd, datum en plek soos deur die pro forma-klaer aangedui in die kennisgewing in subparagraaf (ii) bedoel;
 - (c) indien hy van mening is dat dit gepas is om 'n formele ondersoek te hou -
 - (i) 'n pro forma-klaer aanstel wat die reg moet hê om 'n regsverteenvoerder aan te stel om hom of haar by te staan; en
 - (ii) die komitee van formele ondersoek skriftelik gelas om 'n formele ondersoek te hou.

Faktore wat komitee van voorlopige ondersoek in ag moet neem

5. Ten einde te besluit of dit gepas sal wees om 'n informele ondersoek of 'n formele ondersoek te hou, moet die komitee van voorlopige ondersoek, onder andere, die volgende in ag neem -
- (a) die aard van die klagte;
 - (b) die gevolge van die beweerde onprofessionele gedrag van die respondent vir die klaer, die algemene publiek, die raad, die respondent, die aptekersberoep of enige ander belanghebbende partye;

- (c) die straf wat die komitee van voorlopige ondersoek meen deur die komitee van informele ondersoek of die komitee van formele ondersoek, na gelang van die geval, opgelê kan word indien die respondēt aan onprofessionele gedrag skuldig bevind word.

HOOFSTUK III

INFORMELE ONDERSOEK

Uitsluiting van lid van komitee

6. Iemand wat in die komitee van voorlopige ondersoek met betrekking tot 'n klagte gedien het, mag nie ten opsigte van dieselfde klagte in 'n komitee van informele ondersoek dien nie.

Pro forma-klaer

7. Die pro forma-klaer kragtens regulasie 4(3)(b)(i) aangestel, moet -
- (a) 'n kennisgewing bedoel in regulasie 4(3)(b)(ii) per aangetekende pos aan die respondēt by sy of haar jongste bekende geregistreerde adres beteken tesame met sodanige tersaaklike dokumente as wat nie voorheen aan hom of haar voorsien is nie; en
 - (b) aan die lede van die komitee van informele ondersoek 'n afskrif van die kennisgewing en afskrifte van alle tersaaklike dokumente verstrek.

Die respondēt

8. Die respondēt kan -
- (a) indien hy of sy saamstem met die inhoud van die voorgestelde toestemmingsbevel, wat aan die kennisgewing bedoel in regulasie 7 geheg moet wees, dit voor 'n kommissaris van ede invul en onderteken en voor die datum van die informele ondersoek aan die komitee van informele ondersoek terugbesorg, in welke geval die komitee van informele ondersoek op die datum vir sodanige ondersoek bepaal, die voorgestelde toestemmingsbevel die finale toestemmingsbevel maak; of
 - (b) indien hy of sy nie saamstem nie met die inhoud van die voorgestelde toestemmingsbevel, wat aan die kennisgewing bedoel in regulasie 7 geheg moet wees en verkies om sy of haar saak aan die komitee van informele ondersoek te stel -

- (i) 'n vorm wat wesenlik ooreenstem met Aangangsel A2 van hierdie regulasies, invul, onderteken en voor die datum bepaal vir die informele ondersoek aan die komitee van informele ondersoek besorg; en
- (ii) persoonlik die informele ondersoek by te woon om -
 - (aa) skriftelike voorleggings by die komitee van informele ondersoek in te dien; of
 - (bb) mondelinge getuienis aan te voer; of
 - (cc) argument te stel,

ten einde die inhoud van die voorgestelde toestemmingsbevel te wysig; of

- (c) indien hy of sy verkies dat 'n komitee van formele ondersoek die klagte bereg, 'n vorm wat wesenlik ooreenstem met Aangangsel A3 van hierdie regulasies, invul, onderteken en voor die datum bepaal vir die informele ondersoek aan die komitee van informele ondersoek besorg, in welke geval die aangeleentheid op die datum vir sodanige ondersoek bepaal, verwys moet word na 'n komitee van formele ondersoek vir hantering ooreenkomstig die prosedure in Hoofstuk IV van hierdie regulasies uiteengesit.

Respondent se versuim om 'n keuse uit te oefen

9. Indien die respondēt versuim om enige van die keuses bedoel in regulasie 8 uit te oefen of versuim om te antwoord op die kennisgewing in regulasie 4(3)(b)(ii) bedoel, moet die komitee van informele ondersoek die aangeleentheid na 'n komitee van formele ondersoek verwys om die klagte te bereg ooreenkomstig die prosedure in Hoofstuk IV van hierdie regulasies uiteengesit.

Opdrag aan komitee van informele ondersoek

10. Op die datum vir 'n informele ondersoek bepaal, moet die komitee van informele ondersoek -
- (a) indien die respondēt ingestem het tot die voorgestelde toestemmingsbevel soos bedoel in regulasie 8(a), die voorgestelde toestemmingsbevel 'n finale toestemmingsbevel maak waardeur die bevinding en die straf bekragtig word en die pro forma-klaer gelas om die respondēt dienooreenkomstig in te lig;

- (b) indien die respondent verkies om kragtens regulasie 8(b) voort te gaan, voortgaan om 'n informele ondersoek te hou;
- (c) indien die respondent verkies om kragtens regulasie 8(c) voort te gaan, die aangeleentheid na 'n komitee van formele ondersoek verwys vir hantering ooreenkomstig die prosedure in Hoofstuk IV van hierdie regulasies uiteengesit.

Dagvaarding van getuies

11. (1) Die pro forma-klaer en die respondent kan die registrateur versoek om alle persone as getuies te dagvaar wat hulle by die informele ondersoek ten behoeve van hulle wil laat getuig, deur middel van 'n dagvaarding wat weselik met Aanhangsel C van hierdie regulasies ooreenstem.
- (2) Indien getuies op versoek van die respondent gedagvaar word, kan die registrateur van die respondent vereis om 'n bedrag geld aan die raad te betaal wat voldoende is om die gelde en uitgawes in subregulasie (3) bedoel, te dek.
- (3) Die party op wie se versoek 'n getuie gedagvaar word om te verskyn en getuienis by 'n informele ondersoek af te lê, is aanspreeklik vir die betaling van gelde ooreenkomstig die tarief wat op siviele sake in 'n landdroshof van toepassing is, en vir die vergoeding van sodanige getuie vir enige redelike uitgawes wat hy of sy moes aangaan om die informele ondersoek by te woon.

Formaat van ondersoek

12. (1) Die informele ondersoek moet die vorm aanneem van 'n inkwisitoriese ondersoek en die pro forma-klaer en die respondent moet 'n geleentheid gebied word om hulle onderskeie sake by wyse van skriftelike voorlegging, mondelinge getuienis en argumentering te stel.
- (2) Nóg die pro forma-klaer nóg die respondent is op regsverteenvoording by die informele ondersoek geregtig.

Bevindings deur komitee van informele ondersoek

13. (1) Die komitee van informele ondersoek moet, by afhandeling van 'n informele ondersoek -

- (a) indien hy 'n toestemmingsbevel kan beding wat aanvaarbaar is vir die pro forma-klaer, die respondent en homself –
 - (i) 'n toestemmingsbevel soos ooreengekom opstel wat uiteengesit is in 'n vorm wat wesenlik met Aangangsel A1 van hierdie regulasies ooreenstem;
 - (ii) die respondent en die pro forma-klaer versoek om die toestemmingsbevel te onderteken;
 - (iii) 'n bevinding maak; en
 - (iv) die straf waarop in die toestemmingsbevel ooreengekom is, oplê;
 - (b) indien hy nie 'n toestemmingsbevel kan beding wat vir die pro forma-klaer, die respondent en homself aanvaarbaar is nie, 'n komitee van formele ondersoek skriftelik gelas om 'n formele ondersoek na die klagte teen die respondent te hou.
- (2) 'n Toestemmingsbevel in subregulasie (1) bedoel, maak nie 'n vorige skuldigbevinding uit in enige latere ondersoek na 'n klagte teen die respondent kragtens hierdie regulasies nie.

HOOFSTUK IV FORMELE ONDERSOEK

Uitsluiting van lid van komitee

14. Iemand wat in die komitee van voorlopige ondersoek of die komitee van informele ondersoek met betrekking tot 'n klagte gedien het, mag nie in 'n komitee van formele ondersoek ten opsigte van daardie klagte dien nie.

Pro forma-klaer

15. (1) Wanneer 'n komitee van voorlopige ondersoek of 'n komitee van informele ondersoek 'n klagte na 'n komitee van formele ondersoek verwys het, moet die pro forma-klaer –
- (a) 'n datum, tyd en plek vir die formele ondersoek bepaal;

- (b) 'n kennisgewing opstel wat wesenlik ooreenstem met Aanhangsel B van hierdie regulasies, wat die respondent in kennis stel om 'n formele ondersoek by te woon op 'n tyd, datum en plek wat deur die pro forma-klaer in die kennisgewing aangedui is; en
 - (c) die lede van die komitee van formele ondersoek dien ooreenkomstig inlig en aan hulle 'n afskrif van die kennisgewing en afskrifte van alle tersaaklike dokumente verstrek.
- (2) Die kennisgewing in subregulasie (1)(b) bedoel, moet persoonlik of per aangetekende pos aan die respondent beteken word by sy of haar jongste bekende geregistreerde adres.
 - (3) Die pro forma-klaer en die respondent kan die registrateur versoek om alle persone as getuies te dagvaar wat hulle ten behoeve van hulle wil laat getuig by die formele ondersoek deur middel van 'n dagvaarding wat wesenlik met Aanhangsel C van hierdie regulasies ooreenstem.
 - (4) Indien getuies op versoek van die respondent gedagvaar word, kan die registrateur van die respondent vereis om 'n bedrag geld aan die raad te betaal wat voldoende is om die gelde en uitgawes in subregulasie (5) bedoel, te dek.
 - (5) Die party op wie se versoek 'n getuie gedagvaar word om te verskyn en getuienis by 'n formele ondersoek af te lê, is aanspreeklik vir die betaling van gelde ooreenkomstig die tarief wat op siviele sake in 'n landdroshof van toepassing is, en vir die vergoeding van sodanige getuie vir enige redelike uitgawes wat hy of sy moes aangaan om die formele ondersoek by te woon.

Aanstel van voorsitter

16. Die komitee van formele ondersoek moet uit eie geledere 'n voorsitter aanstel.

Prosedure by formele ondersoek

17. By 'n formele ondersoek moet die volgende prosedure gevolg word:

- (a) Die pro forma-klaer moet die kennisgewing wat aan die respondent gerig is, voorlees tensy die respondent afwesig is of die respondent of sy of haar regsverteenvoorder aandi dat dit nie vereis word nie.
- (b) Indien die respondent teenwoordig is of deur 'n regsverteenvoorder verteenwoordig word, moet die voorsitter die respondent of sy of haar regsverteenvoorder vra om skuldig of onskuldig op die klagte te pleit, en die pleit moet aangeteken word.
- (c) Indien die respondent of sy of haar regsverteenvoorder weier of versuim om direk op die klagte te pleit, moet die komitee van formele ondersoek namens die respondent 'n pleit van onskuldig aanteken, en 'n pleit wat aldus aangeteken is, het dieselfde uitwerking as wanneer die respondent werklik aldus gepleit het.
- (d) Indien die respondent of sy of haar regsverteenvoorder nie by die formele ondersoek teenwoordig is nie, moet die komitee van formele ondersoek in die afwesigheid van die respondent voortgaan en 'n pleit van onskuldig aanteken, tensy die respondent skriftelik op die klagte teen hom of haar skuldig gepleit het, in welke geval die komitee dit as die respondent se pleit aanteken.
- (e) Indien die respondent nie teenwoordig of verteenwoordig is nie, maak die skriftelike verweer, verklaring(s) of verduideliking(s) deur hom of haar of namens hom of haar voor die formele ondersoek gemaak, as daar is, sy of haar verweer uit en die pro forma-klaer moet dit aan die komitee van formele ondersoek voorlê.

Prosedure nadat pleit van skuldig gepleit is

18. Indien 'n pleit van skuldig aangeteken word en die komitee van formele ondersoek van mening is dat hy verdere inligting nodig het om te bevind dat die klagte onprofessionele gedrag aan die kant van die respondent uitmaak al dan nie, is hy daarop geregtig om enige van die getuies wat namens die pro forma-klaer of die respondent gedagvaar is, te roep om onder eed of bevestiging mondelinge getuienis af te lê en om sodanige dokumentêre getuienis wat op die klagte betrekking het, as wat hy nodig ag, te aanvaar voordat hy tot 'n bevinding kom.

Prosedure nadat pleit van onskuldig gepleit is

19. (1) Indien die respondent onskuldig pleit, kom eers die pro forma-klaer en dan die respondent getuienis aanvoer ten gunste van onderskeidelik die klagte en die verdediging.

- (2) Nadat 'n getuie getuig het, is die teenparty daarop geregtig om die getuie te kruisondervra.
- (3) Die voorsitter van die komitee van formele ondersoek -
 - (a) kan vrae stel aan enige getuie wat namens of deur die pro forma-klaer of die respondent geroep is, en ander lede van die komitee van formele ondersoek toelaat om vrae aan so 'n getuie te stel;
 - (b) moet, voor herondervraging van die getuie deur die party wat daardie getuie geroep het, verdere kruisondervraging toelaat wat voortspruit uit vrae deur die voorsitter en ander lede gestel; en
 - (c) moet ná die kruisondervraging in paragraaf (b) bedoel, die party wat die getuie geroep het, 'n geleentheid bied om die getuie te herondervra rakende aangeleenthede geopper in die kruisondervraging en vrae aan daardie getuie gestel deur die voorsitter of ander lede van die komitee van formele ondersoek.

Verdere getuienis

- 20. (1) Die komitee van formele ondersoek kan, nadat die partye hulle sake afgesluit het -
 - (a) toelaat dat verdere getuienis aangevoer word;
 - (b) enige getuie wat getuienis afgelê het, terugroep.
- (2) Die respondent en die pro forma-klaer, of hul regsverteenvoerders, kan enige getuie wat getuig het soos in subregulasie (1) bedoel, kruisondervra.

Prosedure nadat getuienis aangevoer is

- 21. Nadat alle getuienis aangevoer is -
 - (a) kan die pro forma-klaer die komitee van formele ondersoek oor die getuienis en die regsposisie toespreek;

- (b) kan die respondent of sy of haar regsverteenwoordiger daarna die komitee van formele ondersoek toespreek; en
- (c) kan die pro forma-klaer op die argumente geopper deur of namens die respondent, repliek lewer.

Getuienis en verklarings

22. (1) Alle mondelinge getuienis moet onder eed of bevestiging voor die voorsitter van die komitee van formele ondersoek afgelê word.
- (2) Getuienis in die vorm van 'n beëdigde of plegtige verklaring moet toelaatbaar wees ingevolge die Wet op Bewysleer in Siviele Sake, 1965 (Wet No. 25 van 1965), of enige gemeenregtelike beginsel wat in siviele gedingvoering van toepassing is.
- (3) Die oorkonde, of enige deel daarvan, van 'n wettig ingestelde geregshof, ondersoek- of statutêre liggaam moet as *prima facie*-getuienis aanvaar word indien dit as 'n ware afskrif gewaarmerk is: Met dien verstande dat indien dit doenlik is en billik blyk te wees, die komitee van formele ondersoek 'n getuie wie se getuienis in sodanige oorkonde verskyn, kan roep om getuienis by die formele ondersoek af te lê.

Bevindings deur die komitee van formele ondersoek

23. (1) Enige beslissing van die komitee van formele ondersoek oor 'n aangeleentheid wat in verband met of in die loop van 'n ondersoek ontstaan, moet tydens daardie ondersoek aan die betrokke persone bekend gemaak word.
- (2) By afhandeling van die formele ondersoek moet die komitee van formele ondersoek *in camera* oor 'n bevinding beraadslaag.
- (3) Indien die respondent onskuldig bevind word op die klagte wat teen hom of haar ingebring is, moet hy of sy onverwyld dienooreenkomstig ingelig word en moet die komitee van formele ondersoek sy bevinding aan die raad rapporteer.
- (4) Indien die komitee van formele ondersoek bepaal dat voldoende feite gedurende die formele ondersoek voorgelê is wat die klagte op 'n oorwig van waarskynlikhede bewys, moet hy beslis of die klagte onprofessionele gedrag uitmaak en moet hy sy bevinding op 'n ope vergadering bekend maak.

- (5) Indien die respondent deur die komitee van formele ondersoek skuldig bevind word, moet die pro forma-klaer bewyse van vorige skuldigbevindings, met uitsondering van 'n bevinding of straf opgelê deur 'n komitee van informele ondersoek, van die respondent kragtens die Wet aanvoer indien sodanige veroordelings teen die naam van die respondent in die rekords van die registrateur aangeteken is: Met dien verstande dat kennis van die voorneme om dit te doen voor die aanvang van die ondersoek deur die pro forma-klaer aan die respondent gegee is.
- (6) Bewys van vorige skuldigbevindings in subregulasie (5) bedoel, moet deur middel van 'n sertifikaat onder handtekening van die registrateur geskied met vermelding van die aard van die klagte wat op daardie tydstip die respondent ten laste gelê is, die bevinding, die datum van sodanige bevinding en die straf opgelê.
- (7) Die respondent kan die korrektheid van 'n sertifikaat in subregulasie (6) bedoel betwis, in welke geval 'n afskrif van die betrokke oorkonde wat in die besit van die registrateur is en die notule van die raadsvergadering waartydens die bevinding en straf bekragtig of gerapporteer is, voorgelê moet word, waarna die feit van skuldigbevinding geag moet word afdoende bewys te wees.

Versagting van straf

24. (1) Die respondent kan, na bewys van vorige skuldigbevindings deur die pro forma-klaer, as daar is, die komitee van formele ondersoek toespreek en getuienis, hetsy mondeling of skriftelik, aanvoer ter versagting van 'n straf wat opgelê staan te word.
- (2) Enige getuies wat ter versagting geroep is, mag deur die lede van die komitee van formele ondersoek en die pro forma-klaer ondervra word.
- (3) Die pro forma-klaer kan, nadat die respondent die komitee van formele ondersoek toespreek het of getuienis aangevoer het ter versagting van 'n straf wat opgelê staan te word, verhoë aan die komitee van formele ondersoek rig of getuienis, hetsy mondelings of skriftelik, aanvoer rakende 'n gepaste straf om op te lê.
- (4) Indien die respondent nie teenwoordig of verteenwoordig is nie, moet enige skriftelike verhoë, verklaring of verduideliking deur of namens hom of haar gemaak wat op 'n toepaslike straf betrekking het, deur die komitee van formele ondersoek in ag geneem word.

Straf en kostebevel

25. (1) Die komitee van formele ondersoek moet *in camera* beraadslaag oor 'n straf wat opgelê moet word en oor 'n kostebevel in artikel 40(3) van die Wet bedoel wat gemaak moet word.
- (2) Die voorsitter van die komitee van formele ondersoek moet die bevinding, die opgelegde straf en die kostebevel wat gemaak is, indien van toepassing, op 'n ope vergadering bekend maak.
- (3) Die komitee van formele ondersoek moet sy bevinding, die opgelegde straf en die kostebevel wat gemaak is, as daar is, aan die raad rapporteer.

Publikasie in Staatskoerant

26. Die registrateur moet die naam van die respondent, 'n opsomming van die klagte waaraan hy of sy skuldig bevind is en die straf wat opgelê is, in enige van die amptelike tale in die *Staatskoerant* en in die raadsverslag laat publiseer.

Assessore en regsadviseurs

27. Die komitee van formele ondersoek kan 'n persoon met ondervinding in die regspleging aanstel en vergoed om by enige ondersoek teenwoordig te wees –
- (a) as 'n assessor; of
- (b) om die komitee van formele ondersoek in verband met regskwessies, prosedure en bewyslewering te adviseer.

Verdagging van verrigtinge

28. Die komitee van formele ondersoek kan uit eie beweging of op versoek van die pro forma-klaer of die respondent of sy of haar regsverteenvoerder enige ondersoek wat kragtens hierdie regulasies gehou word, verdaag tot sodanige datum, tyd en plek as wat die komitee van formele ondersoek bepaal of as wat die registrateur by wyse van aangetekende pos aan al die betrokke partye, bekend maak.

HOOFSTUK V

ALGEMEEN

Bevoegdhede van die raad

29. Niks in hierdie regulasies word uitgelê as sou dit die raad ontdoen van die reg en bevoegdheid om enige klagte te behandel sonder om dit na 'n komitee van voorlopige ondersoek, informele ondersoek of formele ondersoek te verwys nie.
30. Die raad kan, indien hy 'n klagte van onprofessionele gedrag ontvang het teen 'n persoon kragtens die Wet by die raad geregistreer, by 'n landdros van die distrik waarin die respondent praktiseer of as 'n apteker sake doen, aansoek doen om 'n lasbrief wat wesenlik met Aanhangsel D van hierdie regulasies ooreenstem, wat 'n beampte of inspekteur wat behoorlik deur die raad ingevolge artikel 4(v) van die Wet aangestel is, magtig om -
- (a) alleen of met die bystand van die Suid-Afrikaanse Polisie, die sakeperseel van die respondent of enige ander perseel te betree waar sakerekords of medisyne wat aan die respondent behoort, gehou word, welke perseel in die lasbrief geïdentifiseer moet word;
 - (b) sodanige perseel te deursoek vir ongeregistreerde medisyne of medisyne wat wederregtelik bekom is, statutêre rekords en ander dokumente wat ingevolge die Wet op die Beheer van Medisyne en Verwante Stowwe, 1965, of die Wet gehou moet word wat betrekking het op die klagte; en
 - (c) op sodanige medisyne, rekords of dokumente beslag te lê en dit van die sake- of ander perseel in die lasbrief geïdentifiseer, te verwyder nadat 'n volledige inventaris van sodanige medisyne, rekords of dokumente opgestel is en nagegaan is met 'n persoon ouer as 16 jaar wat oënskynlik in beheer van sodanige sake- of ander perseel is en wanneer toepaslik en doenlik, afskrifte van rekords of dokumente waarop beslag gelê is en wat verwyder gaan word, by sodanige persoon gelaat is.

Ondersoeke voor inwerkingtreding van hierdie regulasies

31. 'n Tugondersoek wat kragtens die regulasies afgekondig by Goewermentskennisgewing No. R.353 van 2 Maart 1984, voor 'n tugkomitee 'n aanvang geneem het onmiddellik vóór die inwerkingtreding van hierdie regulasies, moet voortgesit word ooreenkomstig die prosedures in eersgenoemde regulasies voorgeskryf asof hulle nie herroep is nie.

Herroeping

32. Die regulasies afgekondig by Goewermentskennisgewing No. R.353 van 2 Maart 1984 word hierby herroep.

**MINISTER VAN GESONDHEID****DATUM:**

28. 5. 2001

AANHANGSEL A

DIE SUID-AFRIKAANSE APTEKERSRAAD

Saak No.:

In die saak tussen:

Die pro forma-klaer

en

..... (hierna "die respondent" genoem)

KENNISGEWING OM INFORMELE ONDERSOEK BY TE WOON

1. Die respondent word hiermee gedagvaar om op
(datum) om (tyd) op die Derde Vloer, SA
Aptekersraadgebou, Belvederestraat 591, Arcadia, Pretoria, voor die komitee van informele
ondersoek van die Suid-Afrikaanse Aptekersraad te verskyn om op die volgende klagte(s) te
antwoord:

[Voeg besonderhede van klagte(s) by]

2. Die respondent kan een van die volgende keuses uitoefen:

(a) Toestemming tot bevinding en straf

Die respondent is daarop geregtig om toe te stem dat die komitee van informele
ondersoek die bevinding maak en die straf opleë wat in Aanhangsel A1 voorgestel word,
deur dit te onderteken voor 'n kommissaris van ede en aan die pro forma-klaer terug te
besorg by die adres aangedui in Aanhangsel A1, sodat dit die pro forma-klaer voor
..... (datum) bereik.

Indien die respondent verkies om tot die bevinding en straf voorgestel in Aanhangsel A1
toe te stem, en indien sodanige straf die betaling van 'n boete behels, moet die

respondent een van die volgende saam met Aanhangsel A1 by die pro forma-klaer indien by die adres in Aanhangsel A1 aangedui:

- (i) Bewys van betaling (afskrif van depositostrokie / elektroniese bankoordrag) in die volgende rekening van die Suid-Afrikaanse Aptekersraad:

Bank:

Tak:

Takkode:

Rekeningnommer:

- (ii) posorder of tjek;

- (iii) kredietkaartmagtiging; of

- (iv) 'n skriftelike versoek om die boete en/of koste in Aanhangsel A1 aangedui, in paaimente te betaal.

- (b) Kennisgewing van voorneme om by informele ondersoek te verskyn

Die respondent is daarop geregtig om in die vorm van Aanhangsel A2 kennis te gee dat hy of sy die informele ondersoek persoonlik sal bywoon op die vasgestelde tyd en datum om van sy of haar regte kragtens Hoofstuk III van die regulasies betreffende die hou van ondersoekte kragtens Hoofstuk V van die Wet op Aptekers, 1974 (Wet No. 53 van 1974) (hierna "die Regulasies" en die "Wet" genoem), waarvan 'n afskrif hierby aangeheg is, gebruik te maak.

Neem asseblief kennis dat kragtens regulasie 12 van die Regulasies nóg die pro forma-klaer nóg die respondent op regsverteenvoordiging by die informele ondersoek geregtig is.

- (c) Kennisgewing van voorneme om by die formele ondersoek te verskyn

Die respondent is daarop geregtig om in die vorm van Aanhangsel A3 kennis te gee dat hy of sy die formele ondersoek op die vasgestelde tyd en datum sal bywoon om van sy of haar regte kragtens Hoofstuk IV van die regulasies gebruik te maak, waarvan 'n afskrif hierby aangeheg is.

Neem asseblief kennis dat sowel die pro forma-klaer as die respondent op regsverteenvoording by die formele ondersoek geregtig is.

Algemene inligting betreffende die keuses gelys in paragraaf 2

- (i) Indien die respondent verkies om toe te stem tot die voorgestelde bevinding en straf in paragraaf 2(a) bedoel, moet die komitee van informele ondersoek op die datum vir die informele ondersoek bepaal, die bevinding maak en die straf op lê in Aanhangsel A1 bepaal: Met dien verstande dat sodanige bevinding nie 'n vorige skuldigbevinding vir doeleindes van regulasie 13(2) van die Regulasies uitmaak in enige latere ondersoek na die onprofessionele gedrag van die respondent nie.
- (ii) Indien die respondent verkies om by die informele ondersoek in paragraaf 2(b) bedoel te verskyn, moet die komitee van informele ondersoek op die datum vir die informele ondersoek bepaal -
 - (aa) die klagte(s) ooreenkomstig die prosedure in Hoofstuk III van die Regulasies uiteengesit, hanteer;
 - (bb) 'n bevinding maak of die feite wat tot sy tevredenheid bewys is, onprofessionele gedrag uitmaak;
 - (cc) een van die strawwe voorgeskryf by artikel 45(1) van die Wet op lê indien hy bevind dat die bewese feite onprofessionele gedrag uitmaak;
 - (dd) 'n bevel kragtens artikel 40(3) van die Wet maak rakende die koste; of
 - (ee) die aangeleentheid vir 'n formele ondersoek deur die komitee van formele ondersoek verwys.
- (iii) Indien die respondent verkies om tot 'n formele ondersoek in paragraaf 2(c) bedoel oor te gaan, moet die komitee van informele ondersoek op die datum vir die informele ondersoek bepaal, die komitee van formele ondersoek gelas om 'n formele ondersoek te hou op sodanige datum, tyd en plek en na sodanige klagte(s) as waarop die pro forma-klaer besluit, waarvan die respondent te geleger tydstyd ingelig sal word.

- (iv) Indien die respondent versuim om op hierdie kennisgewing te antwoord of om 'n keuse in paragrawe 2(a) tot (c) bedoel uit te oefen, moet die komitee van informele ondersoek op die datum vir die informele ondersoek bepaal, die aangeleentheid na die komitee van formele ondersoek verwys om die klage te bereg ooreenkomstig die prosedure in Hoofstuk IV van die Regulasies uiteengesit.

3. Die respondent word hierby verwys na die bepalings van artikel 45B van die Wet betreffende die vordering van boetes en kostebevele.

Uitgereik te Pretoria op deur die pro forma-klaer.

Pro forma-klaer

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AANHANGSEL A1

DIE SUID-AFRIKAANSE APTEKERSRAAD

Saak No.:

In die saak tussen:

Die pro forma-klaer

en

.....(hierna "die respondent" genoem)

TOESTEMMINGSBEVEL

1. Ek, die ondergetekende
.....(volle name),

identiteitsnommer:

woonagtig te:

.....

.....

.....

stem hiermee toe dat die komitee van informele ondersoek -

(a) bevind dat die gedrag waarvan ek aangekla is, onprofessionele gedrag deur my in my
hoedanigheid van apteker uitmaak;

(b) die volgende straf ople:

.....
.....
.....
.....

(c) die volgende kostebevel maak :

"Die respondēt word gelas om die volgende koste te betaal:

Kennisgewing: R.....

Informele Ondersoek koste: R.....

Totaal R....."

2. Ek heg hierby aan -

- ☐ bewys van regstreekse betaling in die bankrekening van die Suid-Afrikaanse Aptekersraad;
- ☐ posorder / tjek; of
- ☐ magtiging aan die registrateur van die Suid-Afrikaanse Aptekersraad om my kredietkaart te debiteer, rekeningnommer

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VISA ☐ MASTER ☐

Vervaldatum:

--	--	--	--

Geteken te op

Respondent

Geteken te op deur die respondent voor my in my hoedanigheid van kommissaris van ede, nadat ek my vergewis het van die identiteit van die ondertekenaar en van die feit dat die respondent die inhoud van hierdie dokument en die gevolg daarvan begryp en verstaan.

Kommissaris van ede

Neem kennis: Die toestemmingsbevel moet deur die respondent aan die pro forma-klaer by die volgende adres besorg word:

Volle name:

Straatadres:

Telefoonno.: ()

AANHANGSEL A2

DIE SUID-AFRIKAANSE APTEKERSRAAD

Saak No.:

In die saak tussen:

Die pro forma-klaer

en

.....(hierna "die respondent" genoem)

KENNISGEWING VAN VOORNEME OM BY INFORMELE ONDERSOEK TE VERSKYN

1. Neem kennis dat die respondent voornemens is om persoonlik te verskyn voor die komitee van informele ondersoek van die Suid-Afrikaanse Aptekersraad, om (tyd) op (datum) op die Derde Vloer, SA Aptekersraadgebou, Belvederestraat 591, Arcadia, Pretoria, om sy of haar verdediging aan te voer.
2. Neem verder kennis dat die respondent voornemens is om die volgende getuies kragtens regulasie 11 te roep:

Volle name	Posadres	Straatadres	Telefoonno.
1.			
2.			
3.			

en die registrateur versoek om hierdie getuies te dagvaar.

Geteken te op

Respondent

Neem kennis: Hierdie kennisgewing moet deur die respondent ingedien word by:

- (a) Die Komitee van Informele Onderzoek
Die Suid-Afrikaanse Aptekersraad
Posbus 40040
Arcadia
0007

EN

- (b) Die Pro Forma-klaer
Posbus 40040
Arcadia
0007

AANHANGSEL A3

DIE SUID-AFRIKAANSE APTEKERSRAAD

Saak No.:

In die saak tussen:

Die pro forma-klaer

en

.....(hierna "die respondent" genoem)

KENNISGEWING VAN VOORNEME OM NA FORMELE ONDERSOEK OOR TE GAAN

Die respondent versoek die komitee van informele ondersoek hiermee om die klagte na die komitee van formele ondersoek kragtens Hoofstuk IV van die regulasies betreffende die hou van ondersoeke kragtens hoofstuk V van die Wet op Aptekers, 1974 (Wet No. 53 van 1974), te verwys.

Geteken te op

Respondent

Neem kennis: Hierdie kennisgewing moet deur die respondent ingedien word by:

- (a) Die Komitee van Informele Onderzoek
Die Suid-Afrikaanse Aptekersraad
Posbus 40040
Arcadia
0007

EN

- (b) Die Pro Forma-klaer
Posbus 40040
Arcadia
0007

AANHANGSEL B

DIE SUID-AFRIKAANSE APTEKERSRAAD

Saak No.:

In die saak tussen:

Die pro forma-klaer

en

.....(hierna "die respondēt" genoem)

KENNISGEWING AAN DIE RESPONDENT OM FORMELE ONDERSOEK BY TE WOON

U word hiermee in kennis gestel dat die Suid-Afrikaanse Aptekersraad (hierna "die raad" genoem) of die komitee van formele ondersoek van die raad voornemens is om 'n formele ondersoek te hou op die dag van om (tyd) te (adres), wanneer die volgende klagte(s) wat teen u ingebring is, oorweeg sal word:

"Dat u, synde 'n apteker, behoorlik geregistreer kragtens die Wet op Aptekers, 1974 (Wet No. 53 van 1974) (hierna "die Wet" genoem), skuldig is aan onprofessionele gedrag deurdat u

.....
....."

Kragtens artikel 40(2) van die Wet, is u daarop geregtig om die ondersoek by te woon en op die klagte te antwoord en tot u verdediging aangehoor te word, hetsy persoonlik of deur u regsverteenwoordiger. Indien u versuim om te verskyn mag die raad of die komitee van formele ondersoek die klagte(s) ooreenkomstig Hoofstuk IV van die regulasies betreffende die hou van ondersoeke kragtens Hoofstuk V van die Wet (hierna "die Regulasies" genoem) oorweeg en afhandel.

Indien u verlang dat u brief gedateer, of enige verdere skriftelike mededeling wat u wens te rig, u verduideliking of verdediging moet uitmaak, verwittig my asseblief skriftelik daarvan so spoedig moontlik, maar nie later nie as, en u word hiermee gewaarsku dat enige sodanige kommunikasie as getuienis gebruik kan word.

'n Afskrif van die regulasies word aangeheg.

Gegee op.....te.....deur die pro forma-klaer.

Pro forma-klaer

AANHANGSEL C

DIE SUID-AFRIKAANSE APTEKERSRAAD

Saak No.:

In die saak tussen:

Die pro forma-klaer

en

.....(hierna "die respondent" genoem)

DAGVAARDING OM VOOR DIE KOMITEE VAN VOORLOPIGE ONDERSOEK OF DIE KOMITEE VAN INFORMELE ONDERSOEK OF DIE KOMITEE VAN FORMELE ONDERSOEK VAN DIE SUID-AFRIKAANSE APTEKERSRAAD TE VERSKYN, EN/OF DOKUMENTÊRE BEWYSE KRAGTENS DIE REGULASIES BETREFFENDE DIE HOU VAN ONDERSOEKE KRAGTENS HOOFSTUK V VAN DIE WET OP APTEKERS, 1974 (WET NO. 53 VAN 1974), VOOR TE LÊ

Getuie se (pos- of straat-) adres:

U, (naam van getuie),
word hiermee gedagvaar om -

- (a) teen (tyd) op (datum) te
..... (plek) voor die komitee
van voorlopige ondersoek of die komitee van informele ondersoek of die komitee van formele
ondersoek van die Suid-Afrikaanse Aptekersraad (hierna "die raad" genoem) kragtens die Wet op
Aptekers, 1974 (Wet No. 53 van 1974), ingestel, getuienis te lewer of voor te lê by 'n ondersoek
deur die komitee van voorlopige ondersoek of by 'n ondersoek deur die komitee van informele
ondersoek of die komitee van formele ondersoek;
- (b) alle dokumente, foto's, rekenaarrekords, kontrakte, boeke, items, artikels, administratiewe of
finansiële rekords of rekenaardata aan die registrateur voor
(datum) voor te lê.

Gegee op (datum) te(plek) onder die hand
van die registrateur van die raad.

REGISTRATEUR

Amptelike Seël

AANHANGSEL D

BETREDINGS- EN BESLAGLEGGINGSLASBRIEF

AAN DIE REGISTRATEUR VAN DIE SUID-AFRIKAANSE APTEKERSRAAD

NADEMAAL dit op grond van inligting onder eed verskaf, blyk dat daar redelike gronde bestaan om te vermoed dat (naam), (hierna "die respondent" genoem) artikel(s) [spesifiseer statutêre bepaling(s)] oortree het of hom/haar skuldig gemaak het aan onprofessionele gedrag, te wete en die respondent se optrede die onderwerp is van 'n voorlopige, informele of formele ondersoek kragtens die regulasies uitgevaardig kragtens artikel 49(1) van die Wet op Aptekers, 1974 (Wet No 53 van 1974); en

NADEMAAL daar redelike gronde bestaan dat daar op 'n sekere perseel, te wete in die landdrosdistrik, sekere medisyne, rekords of dokument is wat verband hou met die beweerde oortreding van die betrokke statutêre bepaling(s) of beweerde onprofessionele gedrag, te wete wat as getuienis by die voorlopige, informele of formele ondersoek benodig word,

word 'n beampte of inspekteur behoorlik kragtens artikel 4(v) van die genoemde Wet aangestel, hiermee gemagtig om gedurende die dag die hierin geïdentifiseerde perseel te betree en te deursoek en op die hierin vermelde medisyne, rekords of dokumentasie beslag te lê.

GEGEE onder my hand te op hede die dag van 2.....

DATUMSTEMPEL

.....
HANDTEKENING: LANDDROS