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



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## GOVERNMENT NOTICES GOEWERMENSKENNISGEWINGS

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### DEPARTMENT OF HEALTH DEPARTEMENT VAN GESONDHEID

No. R. 759

2 July 2004

**FOODSTUFFS, COSMETICS AND DISINFECTANTS ACT, 1972 (ACT NO. 54 OF 1972)****REGULATIONS RELATING TO MILK AND DAIRY PRODUCTS: AMENDMENT**

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

Interested persons are invited to submit any substantiated comments or representations on the proposed regulations to the Director-General of Health, Private Bag X828, Pretoria, 0001 (for the attention of the Director: Food Control), within two months of the date of publication of this notice.

### SCHEDULE

#### Definitions

1. In these regulations, "the Regulations" means the regulations published under Government Notice No. R. 1555 of 21 November 1997, as corrected by Government Notice No. R. 278 of 29 October 1999 and Government Notice No. R. 488 of 8 June 2001 and amended by Government Notice No. R. 9 of 7 January 2000, Government Notice No. R. 53 of 28 January 2000, Government Notice No. R. 755 of 28 July 2000, Government Notice No. R. 837 of 25 August 2000, Government Notice No. R. 1052 of 27 October 2000 and Government Notice No. R. 489 of 8 June 2001.

**Amendment of regulation 2 of the Regulations**

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

- (1) the insertion of the expression ",including pasteurization and ultra-high temperature treatment," after the expression "further processing";
- (2) in paragraph (c), the substitution for the expression "standard plate count test described in paragraph 7" of the expression "standard plate count test method referred to in paragraph 7", and the deletion of the expression "or the dry rehydrated film method for standard colony count described in paragraph 10 of Annex A";
- (3) the substitution for paragraph (d)(i) of the following paragraph:

"(d)(i) on application of the method referred to in paragraph 4 of Annex A, exceeds the most probable number (MPN) of 100 coliform bacteria per 1.0 ml of milk, or if the test method referred to in paragraph 5 of Annex A is used, the number of colony forming units exceed 100 per ml of milk; or"; and
- (4) the substitution for paragraph (d)(ii) of the following paragraph:

"(d)(ii) on application of the test method referred to in paragraph 2 or paragraph 5 of Annex A, is found to exceed the most probable number of 10 *Escherichia coli* in 1 ml of raw milk or the number of colony forming units exceed 10 per ml of raw milk;".

**Amendment of regulation 4 of the Regulations**

3. Regulation 4 of the Regulations is hereby amended by –

- (1) in paragraph (b), the substitution for the expression "to the standard plate count test described in paragraph 7 of Annex A or the dry rehydrated film method for standard colony count described in paragraph 10 of Annex A" of the expression "to the test method referred to in paragraph 7 of Annex A";
- (2) in paragraph (f)(i), the substitution for the expression "or on application of the VRB MUG agar method described in paragraph 5 of Annex A or on using the dry rehydrated film



method described in paragraph 11 of Annex A" of the expression "or on application of the test method referred to in paragraph 5 of Annex A"; and

- (3) in paragraph (f) (ii), the substitution for the expression "described" of the expression "referred to".

#### **Amendment of regulation 5 of the Regulations**

4. Regulation 5 of the Regulations is hereby amended by –

- (1) in paragraph (b), the substitution for the expression "modified Eijkman test or the VRB MUG agar method described in paragraphs 2 and 5, respectively" of the expression "test method referred to in paragraph 2 or that referred to in paragraph 5"; and
- (2) in paragraph (c), the substitution for the expression "VRB MUG agar method or the dry rehydrated film method described in paragraphs 5 and 11 of Annex A, respectively," of the expression "test method referred to in paragraph 5 of Annex A,".

#### **Amendment of regulation 6 of the Regulations**

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

- (1) in paragraph (a)(iii)(aa), the substitution for the expression "VRB MUG agar method or the dry rehydrated film method" of the expression "test method referred to in paragraph 4 or that referred to in paragraph 5 of Annex A,";
- (2) in paragraph (a)(iii)(bb), the substitution for the expression "the modified Eijkman test, the VRB MUG agar method or the dry rehydrated film method described in paragraphs 2, 5 and 11, respectively" of the expression "the test method referred to in paragraph 2 or that referred to in paragraph 5"; and
- (3) in paragraph (a)(iv), the substitution for the expression "described in paragraph 7 or 10" of the expression "referred to in paragraph 7".

**Amendment of regulation 7 of the Regulations**

6. Regulation 7 of the Regulations is hereby amended by –

- (1) in paragraph (b) and in paragraph (d)(i), the substitution for the expression "described" of the expression "referred to"; and
- (2) in paragraphs (c)(ii) and (d)(ii), the substitution for the expression "the modified Eijkmann test or the VRB MUG agar method described in paragraphs 2 and 5, respectively," of the expression "the test method referred to in paragraph 2 or that referred to in paragraph 5".

**Amendment of Annex A of the Regulations**

7. Annex A of the Regulations is hereby amended by –

- (1) the substitution for paragraph 2 of the following paragraph:  
"2. The presence and most probable number (MPN) of *Escherichia coli* bacteria shall be tested by using test method ISO 11866-1: 1997.";
- (2) the substitution for paragraph 4 of the following paragraph:  
"4. The most probable number (MPN) of coliform bacteria shall be tested using test method ISO 5541-2:1986.";
- (3) the substitution for paragraph 5 of the following paragraph:  
"5. Coliform bacteria and *Escherichia coli* shall be tested by using test method ISO 5541-1:1986.";
- (4) the substitution for paragraph 7 of the following paragraph:  
"7. Test method ISO 6610:1992 shall be used to determine the total plate count in milk and milk products."; and
- (5) the deletion of paragraphs 10 and 11.



**M E TSHABALALA-MSIMANG**

**MINISTER OF HEALTH**



## REGULATIONS DEFINING THE SCOPE OF THE PROFESSION OF MEDICAL TECHNOLOGY

DATE 11-06-2004

No. R. 761

2 July 2004

**HEALTH PROFESSIONS ACT, 1974 (ACT NO. 56 OF 1974)****RULES OF CONDUCT TO WHICH A PRACTITIONER MUST ADHERE IN ORDER  
THAT DISCIPLINARY STEPS NOT BE TAKEN AGAINST HIM OR HER BY THE  
PROFESSIONAL BOARD CONCERNED**

The Health Professions Council of South Africa, with the approval of the Minister of Health, intends, in terms of section 49, read with section 61(2) of the Health Professions Act, 1974 (Act No. 56 of 1974), to make the rules in the Schedule.

Interested persons are invited to submit any substantiated comments or representations on the proposed rules to the Health Professions Council of South Africa (for the attention of Senior Manager: Mr J H Coetzer), PO Box 205, Pretoria, 0001, within two months of the date of publication of this notice.

**SCHEDULE****1. Definitions**

In these rules "**the Act**" means the Health Professions Act, 1974 (Act No. 56 of 1974), and any expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context indicates otherwise -

"**Annexure**" means an Annexure to these rules;

"**association**" means a form of practising where two or more practitioners practise for their own account, but share communal assets and/or facilities;



**“board”** means a professional board established in terms of section 15 of the Act, under Government Notice No. R. 75 of 16 January 1998;

**“close collaboration”** means consultation by a practitioner at one stage or another in the treatment of a patient with another practitioner and the furnishing by the latter practitioner, at the end of such treatment, of a report on the treatment to the practitioner whom he or she consulted;

**“dental specialist”** means a dentist who has been registered as a specialist in a speciality or subspeciality in dentistry in terms of the Regulations relating to the Specialities and Subspecialities in Medicine and Dentistry published under Government Notice No. R. 590 of 29 June 2001

**“dispensing optician”** means a person registered as such in terms of the Act and the Rules for the registration of Dispensing Opticians published under Government Notice No. R. 2339 of 3 December 1976;

**“general dentist”** means a dentist not registered as a dental specialist;

**“general medical practitioner”** means a medical practitioner not registered as a medical specialist;

**“impairment”** means a mental or physical condition which affects the competence, attitude, judgement or performance of professional acts by a registered practitioner;

**“independent practice”** means the practising of a registered health profession by a health practitioner without being supervised by another health practitioner;

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

**“medical scientist”** means a person registered under the Act as a biomedical engineer, clinical biochemist, genetic counsellor, medical biological scientist or medical physicist;

**“medical specialist”** means a medical practitioner who has been registered as a specialist in a speciality or subspeciality in medicine in terms of the Regulations relating to the Specialities and Subspecialities in Medicine and Dentistry published under Government Notice No. R. 590 of 29 June 2001;

**“medicine”** means medicine as defined in section 1 of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965);

**“normal practice”** means the place where a registered health practitioner conducts his or her practice on a daily basis;

**“pharmaceutical concern”** means a company registered as such under the Pharmacy Act, 1974 (Act 53 of 1974);

**“practitioner”** means a person registered under the Act and, in the application of rules 5, 6 and 9 of these rules, also a juristic person exempted from registration in terms of section 54A of the Act;

**“private practice”** means the practice of a health practitioner who practices for his or her own account, either in *solus* practice, or as a partner in a partnership, or as an associate in an association with other practitioners, or as a director of a company established in terms of section 54A of the Act;

**“public company”** means a company registered as such under the Companies Act, 1973 (Act No. 61 of 1973);

**“public service”** means a service rendered by the State at the national, provincial or local level of government and includes organizations which function under its



auspices or are largely subsidized by the State or recognized by a board for the purpose of these rules;

“**section**” means a section of the Act;

“**specialist**” means a practitioner who is registered as a specialist in a speciality or subspeciality in terms of the Regulations relating to the Specialities and Subspecialities in Medicine and Dentistry published under Government Notice No. R. 590 of 29 June 2001 and who confines his or her practice to such speciality or subspeciality;

“**supervision**” means the acceptance of liability by a supervising practitioner for the acts of another practitioner;

## 2. General

- (1) Failure by a practitioner to comply with any conduct determined in these rules shall constitute an act or omission in respect of which the board concerned may take disciplinary steps in terms of Chapter IV of the Act.
- (2) Conduct determined in these rules shall not be deemed to constitute a complete list of conduct and the board concerned may therefore inquire into and deal with any complaint of unprofessional conduct which may be brought before such board.
- (3) At an inquiry referred to in subrule (2) the board concerned shall be guided by these rules and the ethical rulings which the board concerned makes from time to time.

### 3. Advertising

A practitioner shall not advertise his or her services or permit, sanction or acquiesce to such advertisement: Provided that such practitioner may inform the public of his or her –

- (a) name(s);
- (b) qualification(s);
- (c) registered speciality or subspeciality, if any;
- (d) practice number;
- (e) physical address of normal practice;
- (f) telephone or contact details;
- (g) practice and/or consultation hours;
- (h) method(s) of payment for service delivered; and
- (i) practice limitations, if any.

### 4. Canvassing or touting

- (1) A practitioner shall not canvas or allow canvassing to be done for patients on his or her behalf in whatever manner.
- (2) A practitioner shall not tout or allow touting in whatever manner by drawing attention –
  - (a) either verbally or by means of printed or electronic media to his or her or another practitioner's titles, professional attainments, personal qualities, superior knowledge or quality of service; or
  - (b) to his or her practice or best prices offered.



## 5. Information on professional stationery

(1) A practitioner shall only print or have printed on letterheads and account forms information pertaining to such practitioner's -

- (a) name;
- (b) profession
- (c) registered category;
- (d) speciality or subspeciality (if any);
- (e) registered qualification(s) or other academic qualification(s) or honorary degree(s) in abbreviated form;
- (f) registration number;
- (g) address(es);
- (h) telephone number(s);
- (i) practice and/or consultation hours; and
- (j) practice number.

(2) A group of practitioners practising as a juristic person which is exempted from registration in terms of section 54A of the Act or a group of practitioners practicing in partnership, shall only print or have printed on letterheads and account forms information pertaining to such juristic person or partnership practitioner's -

- (a) name;

- (b) profession;
  - (c) registered category;
  - (d) speciality or subspeciality (if any);
  - (e) registered qualification(s) or other academic qualification(s) or honorary degree(s) in abbreviated form;
  - (f) registration number;
  - (g) address(es);
  - (h) telephone number(s);
  - (i) business hours;
  - (j) practice number; and
  - (k) exemption from registration in terms of section 54A of the Act.
- (3) A practitioner shall not use prescription forms or envelopes on which the name or address of a pharmacist is printed.

## **6. Naming of a practice**

- (1) A practitioner shall only use his or her own name or the name of a registered practitioner with whom he or she is in partnership or with whom he or she practices as a juristic person as a name for his or her private practice.



- (2) A practitioner referred to in subrule (1) may retain the name of such private practice even if another practitioner, partner of such partnership or member of such juristic person is no longer part of such private practice.
- (3) A practitioner shall not use, in the name of his or her private practice, the expression "hospital", "clinic" or "institute" or any other expression which may give the impression that such private practice forms part of, or is in association with a hospital, clinic or institute.

## 7. Itinerant practice

A practitioner may conduct a regularly recurring itinerant practice at a place where another practitioner is established if, in such itinerant practice, such practitioner renders the same service to patients, at the same fee as the service which he or she would render in the area in which he or she is resident.

## 8. Fees and commission

- (1) A practitioner shall not accept commission from a person or from another practitioner in return for the purchase, sale or supply of any goods, substances or materials used by him or her in the conduct of his or her professional practice.
- (2) A practitioner shall not pay commission to any person for recommending patients.
- (3) A practitioner shall not share fees with any person or another practitioner who has not taken a commensurate part in the services for which such fees are charged.
- (4) A practitioner shall not charge or receive fees for services not personally rendered, except for services rendered by another practitioner with whom he or she is associated as a partner, shareholder or *locum tenens*.

**9. Partnership and juristic persons**

- (1) A practitioner shall only practise in partnership or association with or employ a practitioner who is registered under the Act.
- (2) A practitioner shall only practise in or as a juristic person who is exempted from registration in terms of section 54A of the Act if such juristic person complies with the conditions of such exemption.
- (3) A practitioner shall only practise in a partnership, association or as a juristic person within the scope of the profession in respect of which is registered under the Act.

**10. Covering**

- (1) A practitioner shall only employ as a professional assistant or *locum tenens* or in any other professional capacity, a person -
  - (a) who is registered under the Act;
  - (b) whose name currently appears on a register kept by the registrar under section 18 of the Act; and
  - (c) who is not suspended from practicing his or her profession.
- (2) A practitioner shall only help or support a person registered under the Act, the Pharmacy Act, 1974, the Nursing Act, 1978, the Social Work Act, 1978 or the Dental Technicians Act, 1979, if the professional practice or conduct of such person is legal and within the scope of his or her profession.



## **11. Supersession**

A practitioner shall not supersede or take over a patient from another practitioner if he or she is aware that such patient is under treatment of another practitioner, unless he or she –

- (a) takes reasonable steps, as a matter of courtesy, to inform the other practitioner that he or she has taken over the patient at such patient's request; and
- (b) establishes from the other practitioner what treatment such patient previously received, especially what medication, if any, was prescribed to such patient and in such case the other practitioner shall be obliged to provide such required information.

## **12. Impeding a patient**

A practitioner shall not impede a patient, or someone acting on behalf of a patient, from obtaining the opinion of another practitioner or from being treated by another practitioner.

## **13. Professional reputation of colleagues**

A practitioner shall not cast reflection on the probity, professional reputation or skill of another person registered under the Act, unless such action is justified.

## **14. Professional confidentiality**

- (1) A practitioner shall only divulge verbally or in writing information regarding a patient which he or she ought to divulge -
  - (a) in terms of a statutory provision;

- (b) at the instruction of a court of law; or
  - (c) where justified in the public interest.
- (2) Any information than the information referred to in subrule (1) shall only be divulged by a practitioner -
- (a) with the express consent of the patient;
  - (b) in the case of a minor under the age of 14 years, with the written consent of his or her parent or guardian; or
  - (c) in the case of a deceased patient, with the written consent of his or her next-of-kin or the executor of such deceased patient's estate.

**15. Retention of human organs**

- (1) A practitioner shall only for research, educational, training or prescribed purposes retain the organs of a deceased person during an autopsy.
- (2) The retention of organs referred to in subrule (1) shall be subject -
- (a) to the express written consent given by the patient concerned during his or her lifetime;
  - (b) in the case of a minor under the age of 14 years, to the written consent of such minor's parent or guardian; or
  - (c) in the case of a deceased patient who had not previously given such written consent, to the written consent of his or her next-of-kin or the executor of his or her estate.



## 16. Signing of official documents

A student, intern or practitioner who, in the execution of his or her professional duties, signs official documents relating to patient care such as prescriptions, certificates, patient records, hospital or other reports, shall do so by signing such document next to his or her initials and surname in block letters.

## 17. Certificates and reports

- (1) A practitioner shall only grant a certificate of illness if such certificate contains the following information, namely -
  - (a) the name, address and qualification of such practitioner;
  - (b) the name of the patient;
  - (c) the employment number of the patient (if applicable);
  - (d) the date and time of the examination;
  - (e) whether the certificate is being issued as a result of personal observations by such practitioner during an examination, or as a result of information received from the patient and which is based on acceptable medical grounds;
  - (f) a description of the illness, disorder or malady in layman's terminology with the informed consent of the patient: Provided that if such patient is not prepared to give such consent, the practitioner shall merely specify that, in his or her opinion based on an examination of such patient, such patient is unfit to work;
  - (g) whether the patient is totally indisposed for duty or whether such patient is able to perform less strenuous duties in the work situation;

- (h) the exact period of recommended sick leave;
  - (i) the date of issuing the certificate of illness; and
  - (j) a clear indication of the identity of such practitioner who issued the certificate.
- (2) A certificate of illness referred to in subrule (1) shall be signed by a practitioner next to his or her initials and surname in printed or block letters.
  - (3) If preprinted stationary is used, a practitioner shall delete words which are irrelevant.
  - (4) A practitioner shall issue a brief factual report to a patient where such patient requires information concerning himself or herself.

#### **18. Issuing of prescriptions**

- (1) A practitioner authorized in terms Act 90 of 1997 to prescribe medicines shall issue typewritten, computer-generated, pre-typed, pre-printed or standardized prescriptions for medicine scheduled in Schedules I, II, III and IV of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), subject thereto that such prescriptions may only be issued under his or her personal and original signature.
- (2) A practitioner authorized in terms of Act 90 of 1997 to prescribed medicines shall issue handwritten prescription for medicine scheduled in Schedules V and above of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), under his or her personal and original signature.



**19. Professional appointments**

- (1) A practitioner shall only accept a professional appointment from employers approved by the boards in accordance with a written contract of appointment which is drawn up on a basis which is in the interest of the public and the profession
- (2) A written contract of appointment referred to in subrule (1) shall be made available to the board concerned on such board's request.

**20. Secret remedies**

A practitioner shall in the conduct of his or her practice, only use –

- (a) a form of treatment, apparatus or technical process which is not secret and which is not claimed to be secret; and
- (b) an apparatus which proves upon investigation to be capable of fulfilling the claims made in regard to it.

**21. Consulting rooms**

- (1) A practitioner shall only share a consulting room or waiting room with a person who is registered under the Act.
- (2) A practitioner shall not have an entrance through, or a nameplate at the entrance of a consulting room or a waiting room or business of a person who is not registered under the Act.

**22. Defeating or obstructing the council or a board in the performance of its duties**

A practitioner shall at all times co-operate and comply with any instruction, directive or process of the council, a board or a committee of such board and in particular, shall be required, where so directed to -

- (a) respond to correspondence and instructions from the council, such board or a committee of such board within the stipulated frames; and
- (b) attend consultation at the time and place stipulated by the council, such board or a committee of such board.

**23. Performance of professional acts**

A practitioner shall only perform, except in an emergency, a professional act -

- (a) for which he or she is adequately educated, trained and sufficiently experienced; and
- (b) under proper conditions and in appropriate surroundings.

**24. Exploitation**

A practitioner shall not permit himself or herself to be exploited in a manner which is detrimental to the public or professional interest.

**25. Medicine**

- (1) A practitioner shall not participate in the manufacture for commercial purposes, or in the sale, advertising or promotion of any medicine or in any other activity which amounts to trading in medicine.

- 
- (2) A practitioner shall not engage in or advocate the preferential use or prescription of any medicine, if any valuable consideration is derived from such preferential use or prescription.
- (3) The provisions of subregulation (2) shall not prohibit a practitioner from -
- (a) owning shares in a company;
  - (b) manufacturing or marketing medicines;
  - (c) subject to the provisions of the Pharmacy Act, 1974 (Act No. 53 of 1974), being the owner or part owner of a pharmacy; or
  - (d) whilst employed by a pharmaceutical concern in any particular capacity, performing such duties as are normally in accordance with such employment.
- (4) A practitioner referred to in subregulation (3) shall display a conspicuous notice in his or her waiting room and also, if appropriate, verbally inform his or her patient about the fact that he or she -
- (a) owns shares in a listed public company which manufactures or markets the medicine prescribed to such patient;
  - (b) is the owner or part owner of the pharmacy dispensing such medication;  
or
  - (c) is in the employ of the pharmaceutical concern which manufactures such medication.
- (5) A practitioner may prescribe or supply medication: Provided that such practitioner has ascertained the diagnosis of the patient concerned through a



personal examination of such patient or by virtue of a report by another practitioner under whose treatment such patient is or has been.

- (6) In the case of a patient with a chronic disease the provision of subregulation 5 shall not apply.

## **26. Financial interest in hospitals**

- (1) A practitioner who has a financial interest in a private clinic or hospital shall only refer a patient to such clinic or hospital while displaying a conspicuous notice in his or her waiting room indicating that he or she has a financial interest in such clinic or hospital and also, if appropriate, verbally inform such patient about the fact that he or she has an interest in such clinic or hospital to which he or she is referring such patient.
- (2) A practitioner referred to in subregulation (1) shall not participate in the advertising or promotion of any private clinic or hospital, or in any other activity which amounts to such advertising or promotion for personal gain.
- (3) A practitioner referred to in subregulation (1) shall not engage in or advocate the preferential use of any private clinic or hospital, if any valuable consideration is derived by such practitioner from such preferential use.
- (4) The provisions of subregulation (3) shall not prohibit such practitioner from owning shares in a listed public company, possessing or marketing a private clinic or hospital.
- (5) A practitioner referred to in subregulation (4) shall display a conspicuous notice in his or her waiting room and also, if appropriate, verbally inform his or her patient about the fact that he or she -
- (a) owns shares in a listed public company which manages such private clinic or hospital to which he or she referred such patient;

- (b) is the owner or part owner of such private clinic or hospital; or
  - (c) is in the employ of such private clinic or hospital or the listed public company that owns such private clinic or hospital.
- (6) A practitioner may admit a patient to such private clinic or hospital: Provided that such practitioner -
- (a) has ascertained the diagnosis of the patient concerned through a personal examination of such patient or by virtue of a report by another practitioner under whose treatment such patient is or has been; and
  - (b) informed such patient that such admission in such private clinic or hospital was necessary for his or her treatment.

## **27. Reporting of impairment**

- (1) A student, intern or practitioner shall -
- (a) report impairment in another student, intern or practitioner to the board if he or she is convinced that such student, intern or practitioner is impaired; and
  - (b) report his or her own impairment or alleged impairment to the board concerned if he or she is aware of his or her own impairment or has been publicly informed, or has been seriously advised by a colleague to act appropriately to obtain help in view of an alleged or established impairment.

**28. Research, development and use of chemical, biological and nuclear capabilities**

- (1) A practitioner who is or becomes involved in research, development or use of defensive chemical, biological or nuclear capabilities shall obtain prior written approval from the board concerned to conduct such research, development or use.
- (2) In applying for written approval referred to in subregulation (1), such practitioner shall provide the following information to the board concerned -
  - (a) full particulars of the nature and scope of such research, development or use;
  - (b) whether the clinical trials pertaining to such research have been passed by a professionally recognized research ethics committee;
  - (c) that such research, development or use shall be permissible within the provisions of the World Medical Association's Declaration on Chemical and Biological Weapons; and
  - (d) that such research, development or use is permitted in terms of the provisions of the applicable international treaties or conventions to which South Africa is a signatory.

**29. Dual Registration**

A health practitioner who holds registration with more than one statutory council or professional board shall at all times ensure that :-

- (a) no conflict of interest arises from such dual registration in the rendering of health services to patients;



- (b) patients are clearly informed at the start of the consultation of the status of the practitioner;
- (c) informed consent regarding the status referred to in paragraph (b) is obtained from the said patient;
- (d) patients are not consulted in a dual capacity or charged fees based on such dual consultation; and
- (e) the ethical rules applicable at a given moment to the profession in which the practitioner is acting, are strictly adhered to.

### 30. Repeal

The Rules Specifying the Acts or Omissions in respect of which Disciplinary Steps may be taken by a Professional Board and the Council published under Government Notice No. R. 2278 of 3 December 1976 and Government Notice No. R.1379 of 12 August 1994 as amended by Government Notice No. R.1405 of 22 December 2000 are hereby repealed.



**M E TSHABALALA-MSIMANG**

**MINISTER OF HEALTH**

**ANNEXURE 1****PROFESSIONAL BOARD FOR DENTAL THERAPY AND ORAL HYGIENE****RULES OF CONDUCT SPECIFICALLY PERTAINING TO THE PROFESSIONS OF DENTAL THERAPY, ORAL HYGIENE AND DENTAL ASSISTANTS**

In addition to the rules of conduct referred to in rules 2 to 29 a dental therapist, student in dental therapy, oral hygienist, student in oral hygiene and dental assistant shall also adhere to the following rules of conduct. Failure by such dental therapist, student in dental therapy, oral hygienist and student in oral hygiene to comply with the following rules of conduct listed herein shall constitute an act or omission in respect of which the board may take disciplinary steps in terms of Chapter IV of the Act

**1. Performance of professional acts by a dental therapist**

A dental therapist –

- (a) shall confine himself or herself to clinical diagnosis and practice in the field of dental therapy in which he or she was educated and trained and in which he or she has gained experience, regard being had to both the extent and limits of his or her professional expertise;
- (b) shall communicate and co-operate with dentists, dental therapists and other practitioners in the diagnosis and treatment of a patient.;
- (c) shall not conduct a private practice unless he or she has met the requirements of the board and practised for at least one year under the control and supervision of a dentist or another dental therapist approved by the board;
- (d) shall refer the following cases to a dentist for treatment, namely -
  - (i) pulpal exposure, excluding the emergency treatment thereof;
  - (ii) impacted teeth; and
  - (iii) oral diseases and dental abnormalities, such as tumours, mucosal diseases, developmental defects and infections;
- (e) shall not remove the roots of teeth by any way other than the use of hand instruments or make any incision into the soft tissues during such removal;
- (f) shall not manufacture or repair dentures or other dental appliances which involve the taking of impressions.

**2. Performance of professional acts by an oral hygienist**

An oral hygienist –

- (a) shall confine himself or herself to clinical practice in the field of oral hygiene in which he or she was educated and trained and in which he or she has gained experience, regard being had to both the extent and limits of his or her professional expertise;

- (b) shall communicate and co-operate with dentists, dental therapists and other practitioners in the treatment of a patient;
- (c) shall not conduct a private practice unless he or she has met the requirements of the board.

**3. Performance of professional acts by a dental assistant**

A dental assistant shall only perform professional acts under the supervision of a practitioner and shall limit such acts to acts directly related to his or her education and training in dental assistance.

**4. Performance of professional acts by a student in dental therapy**

A student in dental therapy shall only perform professional acts under the supervision of a practitioner and shall limit such acts to acts directly related to his or her education and training in dental therapy.

**5. Performance of professional acts by a student in oral hygiene**

A student in oral hygiene shall only perform professional acts under the supervision of a dentist, dental therapist, an oral hygienist or other practitioner and shall limit such acts to acts directly related to his or her education and training in oral hygiene.



**ANNEXURE 2****PROFESSIONAL BOARD FOR DIETETICS****RULES OF CONDUCT SPECIFICALLY PERTAINING TO THE PROFESSION OF DIETETICS**

In addition to the rules of conduct referred to in rules 2 to 29 a dietitian, food service manager, nutritionist, student in dietetics, student in food service management and student in nutrition shall also adhere to the following rules of conduct. Failure by such dietitian, food service manager, nutritionist, student in dietetics, student in food service management and student in nutrition to comply with the following rules of conduct listed herein shall constitute an act or omission in respect of which the board may take disciplinary steps in terms of Chapter IV of the Act:

**1. Performance of professional acts by a dietitian**

A dietitian—

- (a) shall confine himself or herself to the performance of professional acts in the field of dietetics in which he or she was educated and trained and in which he or she has gained experience;
- (b) shall not fail to communicate and co-operate with other practitioners in the treatment of a patient.

**2. Performance of professional acts by a food service manager**

A food service manager shall confine himself or herself to the performance of professional acts in the field of food service management in which he or she was educated and trained and in which he or she has gained experience.

**3. Performance of professional acts by a nutritionist**

A nutritionist —

- (a) shall only perform professional acts under the supervision of a practitioner and shall limit such acts to acts directly related to his or her education and training;
- (b) shall not conduct a therapeutic private practice.

**4. Performance of professional acts by a student in dietetics**

A student in dietetics shall only perform professional acts under the supervision of a practitioner and shall limit such acts to acts directly related to his or her education and training.

**5. Performance of professional acts by a student in food service management**

A student in food service management shall only perform professional acts under the supervision of a practitioner and shall limit such acts to acts directly related to his or her education and training.

**6. Performance of professional acts by a student in nutrition**

A student in nutrition shall only perform professional acts under the supervision of a practitioner and shall limit such acts to acts directly related to his or her education and training.

**ANNEXURE 3****PROFESSIONAL BOARD FOR EMERGENCY CARE PRACTITIONERS****RULES OF CONDUCT SPECIFICALLY PERTAINING TO THE PROFESSION OF EMERGENCY CARE**

In addition to the rules of conduct referred to in rules 2 to 29 a basic life support paramedic, an intermediate life support paramedic and an advanced life support paramedic or a student basic life support paramedic, a student intermediate life support paramedic and a student advanced life support paramedic shall also adhere to the following rules of conduct. Failure to comply with the following rules of conduct shall constitute an act or omission in respect of which the board may take disciplinary steps in terms of Chapter IV of the Act:

**1. Performance of professional acts by a basic life support paramedic, an intermediate life support paramedic or an advanced life support paramedic**

Notwithstanding the provisions of rule 23, a basic life support paramedic, an intermediate life support paramedic or an advanced life support paramedic –

- (a) shall not perform any professional act or exercise any capability per incident, other than those set out in the relevant protocol or annexure to such protocol as approved by the board;
- (b) shall not hand over the responsibility for the treatment of a patient to any person who is less qualified or experienced than himself or herself, unless such a basic ambulance assistant, emergency care assistant, ambulance emergency assistant or paramedic assumes full responsibility for the acts performed by such other person.

**2. Performance of professional acts by a student basic ambulance assistant, a student emergency care assistant, a student ambulance emergency assistant or a student paramedic**

A student basic life support paramedic shall only perform professional acts under the supervision of a registered intermediate life support paramedic and, in the case of a student intermediate life support paramedic and/or student advanced life support paramedic, under the supervision of a medical practitioner or an advanced life support paramedic and to limit such acts to acts directly related to his/her education and training.



**ANNEXURE 4****PROFESSIONAL BOARD FOR ENVIRONMENTAL HEALTH PRACTITIONERS****RULES OF CONDUCT SPECIFICALLY PERTAINING TO THE PROFESSION OF ENVIRONMENTAL HEALTH**

In addition to the rules of conduct referred to in rules 2 to 29 an environmental health practitioner, environmental health assistant, food inspector and student in environmental health shall also adhere to the following rules of conduct. Failure by such environmental health practitioner, environmental health assistant, food inspector and student in environmental health to comply with the following rules of conduct listed herein shall constitute an act or omission in respect of which the board may take disciplinary steps in terms of Chapter IV of the Act:

**1. Performance of professional acts by an environmental health practitioner**

An environmental health practitioner –

- (a) shall confine himself or herself to practice in the field of environmental health in which he or she was educated and trained;
- (b) shall not conduct a private practice without meeting the requirements of the board.

**2. Performance of professional acts by an environmental health assistant**

An environmental health assistant–

- (a) shall only perform professional acts under supervision of an environmental health practitioner;
- (b) shall confine himself or herself to practise in the field of environmental health in which he or she was educated and trained;
- (c) shall not conduct a private practice.

**3. Performance of professional acts by a food inspector**

A food inspector –

- (a) shall only perform professional acts under supervision of an environmental health practitioner;
- (b) shall confine himself or herself to practice in the field of environmental health in which he or she was educated and trained;
- (c) shall not conduct a private practice.

**4. Performance of professional acts by a student in environmental health**

A student in environmental health –

- (a) shall only perform professional acts under supervision of an environmental health practitioner.

**ANNEXURE 5****PROFESSIONAL BOARD FOR MEDICAL TECHNOLOGY****ACTS OR OMISSIONS PERTAINING SPECIFICALLY TO MEDICAL TECHNOLOGY****RULES OF CONDUCT SPECIFICALLY PERTAINING TO THE PROFESSION OF MEDICAL TECHNOLOGY**

In addition to the rules of conduct referred to in rules 2 to 29 a medical technologist, medical technician, intern medical technologist and student in biomedical technology shall also adhere to the following rules of conduct. Failure by such medical technologist, medical technician, intern medical technologist and student in biomedical technology to comply with the following rules of conduct listed herein shall constitute an act or omission in respect of which the board may take disciplinary steps in terms of Chapter IV of the Act:

**1. Performance of professional acts by a medical technologist**

A medical technologist –

- (a) shall confine himself or herself to practice in the specific discipline of medical technology in which he or she was educated, trained and registered;
- (b) shall not conduct a private practice without obtaining -
  - (i) post graduate experience of at least two years; and
  - (ii) prior written approval from the board;
- (c) shall, if he or she does not comply with the provisions of paragraph (b), only perform professional acts under the direction of a medical practitioner or medical scientist who is registered in the relevant discipline: Provided that this prohibition shall only apply to acts excluded, as determined by the board.

**2. Performance of professional acts by a medical technician**

A medical technician –

- (a) shall confine himself or herself to practice in the specific discipline of medical technology in which he or she was educated, trained and registered;
- (b) shall only perform professional acts under supervision of a medical practitioner or medical scientist who is registered in the relevant discipline;
- (b) shall not conduct a private practice.

**3. Performance of professional acts by an intern medical technologist**

An intern medical technologist –

- (a) shall only perform professional acts under supervision of a practitioner who is registered in the relevant discipline;



- (b) shall limit the acts referred to in paragraph to acts directly related to his or her education and training as part of the formal internship in his or her discipline of study;
- (c) shall not conduct a private practice;
- (d) who has completed his or her internship shall not perform any professional acts until he or she has satisfied all the academic requirements for registration as a medical technologist and has been registered as such.

**4. Performance of professional acts by a student in medical technology**

A student in medical technology –

- (a) shall only perform professional acts under the supervision of a practitioner who is registered in the relevant discipline;
- (b) shall limit the acts referred to in paragraph to acts directly related to his or her education and training in his or her discipline of study.

**ANNEXURE 6****MEDICAL AND DENTAL PROFESSIONS BOARD****RULES OF CONDUCT SPECIFICALLY PERTAINING TO THE MEDICAL AND DENTAL PROFESSIONS**

In addition to the rules of conduct referred to in rules 2 to 29 a general medical practitioner, general dentist, medical specialist, dental specialist, biomedical engineer, clinical biochemist, genetic counsellor, medical biological scientist, medical physicist, intern in biomedical engineering, intern in clinical biochemistry, intern in genetic counselling, intern in medical biological science and an intern in medical physics shall also adhere to the following rules of conduct. Failure by general medical practitioner, general dentist, medical specialist, dental specialist, biomedical engineer, clinical biochemist, genetic counsellor, medical biological scientist, medical physicist, intern in biomedical engineering, intern in clinical biochemistry, intern in genetic counselling, intern in medical biological science and an intern in medical physics to comply with the following rules of conduct listed herein shall constitute an act or omission in respect of which the board may take disciplinary steps in terms of Chapter IV of the Act:

**1. Performance of professional acts by a general medical practitioner or medical specialist**

A general medical practitioner or medical specialist-

- (a) shall only perform professional acts in the field of medicine in which he or she was educated and trained and in which he or she has gained experience, regard being had to both the extent and the limits of his or her professional expertise;
- (b) shall not fail to communicate and cooperate with general medical practitioners, medical specialists and other health practitioners in the diagnosis and treatment of a patient;
- (c) shall not sign official documents such as reports, certificates or prescriptions unless his or her name is printed next to his signature.

**2. Performance of professional acts by a general dentist or dental specialist**

A general dentist or dental specialist –

- (a) shall only perform professional acts in the field of dentistry in which he or she was educated and trained and in which he or she has gained experience, regard being had to both the extent and the limits of his or her professional expertise;
- (b) shall not fail to communicate and cooperate with general dentists, dental specialists and other health practitioners in the diagnosis and treatment of a patient;
- (c) shall not sign official documents such as reports, certificates or prescriptions unless his or her name is printed next to the signature.

**3. Partnerships and juristic persons**

(1) Where a patient is seen -

- (a) by both a medical specialist or a dental specialist and a general medical practitioner or a general dentist practicing as specified in rule 9(3), such specialist and general



medical practitioner or general dentist shall charge the fees applicable to either the general medical practitioner or the general dentist and not those applicable to a medical specialist or a dental specialist;

- (b) by a medical specialist or a dental specialist only, the fees applicable to such specialist may be charged.

(2) The provisions in rule 9(3) shall be limited in that -

- (a) a medical specialist who practises in one of the prescribed related specialities in medical pathology, shall be excluded from the concession to form an incorporated practice in terms of section 54A, or to form a partnership or association with a general medical practitioner, a medical specialist or another practitioner who does not practise in one of the related specialities in medical pathology;
- (b) a medical specialist who practises in diagnostic radiology, shall be excluded from the concession to form an incorporated practice in terms of section 54A, or to form a partnership or association with a general medical practitioner, medical specialist or another practitioner who does not practise in the speciality diagnostic radiology;
- (c) the only exception to the restriction pertaining to diagnostic radiology referred to in paragraph (b) hereof shall be that a diagnostic radiologist be permitted to form an incorporated practice, partnership or association with a nuclear physician in view of the fact that the said two medical specialities are related to each other in terms of the nature of their field of professional practice.

**4. Medical specialist and dental specialist**

A medical specialist and a dental specialist shall adhere to the Regulations relating to the Specialities and Subspecialities in Medicine and Dentistry published under Government Notice No. R.590 of 29 June 2001.

**5. Performance of professional acts by a biomedical engineer, a clinical biochemist, a genetic counsellor, a medical biological scientist, a medical physicist**

A biomedical engineer, a clinical biochemist, a genetic counsellor, a medical biological scientist and a medical physicist –

- (a) shall only perform professional acts at the request of and in consultation with a medical practitioner or dentist;
- (b) shall perform professional acts directly related to the treatment or diagnosis of a patient, in close cooperation with the medical practitioner or dentist concerned with the diagnosis or treatment of such a patient.
- (c) shall not sign official documents such as reports, certificates or prescriptions, unless his or her name is printed next to the signature.



**6. Performance of professional acts by an intern in medicine**

An intern in medicine-

- (a) shall only perform acts as part of a structured internship training programme at an approved facility under the supervision of a medical practitioner as prescribed for this purpose and in accordance with the guidelines of the board;
- (b) shall limit acts referred to in (a) to acts related to his or her education and training as part of a structured internship programme;
- (c) shall not conduct a private practice;
- (d) shall not act as a locum or perform professional acts in a private practice;
- (e) who has completed his or her internship shall not perform any professional act until he or she has satisfied all the academic requirements for registration as a medical practitioner and has been registered as such;
- (f) shall not sign official documents such as reports, certificates or prescriptions, unless his or her name is printed next to the signature.

**7. Performance of professional acts by interns in biomedical engineering, clinical biochemistry, genetic counselling, medical biological science or medical physics**

An intern in biomedical engineering, clinical biochemistry, genetic counselling, medical biological science or medical physics –

- (a) shall only perform professional acts as part of a structured internship training programme at an approved facility under the supervision of a practitioner as prescribed for this purpose and in accordance with the guidelines of the board;
- (b) shall limit the acts referred to in paragraph (a) to acts directly related to his or her education and training as part of a structured internship programme in his or her discipline of study;
- (c) shall not conduct a private practice;
- (d) shall not act as a locum or perform professional acts in a private practice;
- (e) who has completed his or her internship shall not perform any professional act until he or she has satisfied all the academic requirements for registration as a medical scientist and has been registered as such;
- (f) shall not sign official documents such as reports, certificates or prescriptions, unless his or her name is printed next to the signature.

**8. Performance of professional acts by a student medicine or dentistry**

A student in medicine or dentistry-

- (a) shall only perform professional acts under the supervision of a practitioner approved for this purpose by the board;
- (b) shall limit acts referred to in (a) to acts related to his or her education and training;
- (c) shall not conduct a private practice;
- (d) shall not act as a locum or perform professional acts in a private practice.

**ANNEXURE 7****PROFESSIONAL BOARD FOR OCCUPATIONAL THERAPY AND  
MEDICAL ORTHOTICS/PROSTHETICS****RULES OF CONDUCT SPECIFICALLY PERTAINING TO THE PROFESSION OF OCCUPATIONAL  
THERAPY AND MEDICAL ORTHOTICS/PROSTHETICS**

In addition to the rules of conduct referred to in rules 2 to 29 an occupational therapist, occupational therapy assistant, occupational therapy technician, student in occupational therapy, arts therapist, student in arts therapy, medical orthotist/prosthetist, orthopaedic footwear technician, assistant medical orthotist/prosthetist, leatherworker and student in medical orthotics/prosthetics shall also adhere to the following rules of conduct. Failure by such an occupational therapist, occupational therapy auxiliary, occupational therapy technician, student in occupational therapy, arts therapist, student in arts therapy, medical orthotist/prosthetist, orthopaedic footwear technician, assistant medical orthotist/prosthetist, leatherworker and student in medical orthotics/prosthetics to comply with the following rules of conduct listed herein shall constitute an act or omission in respect of which the board may take disciplinary steps in terms of Chapter IV of the Act:

**1. Performance of professional acts by an occupational therapist**

An occupational therapist –

- (a) shall only perform professional acts in the field of occupational therapy in which he or she was educated and trained and in which he or she has gained experience, regard being had to both the extent and limits of his or her professional expertise;
- (b) shall communicate and co-operate with general medical practitioners and other practitioners in the diagnosis and treatment of a patient;
- (c) in private practice may not employ any person as an occupational therapy assistant or an occupational therapy technician without the prior written approval of the board: Provided that this prohibition shall not apply in the case of a full-time or part-time appointment in the public service.

**2. Performance of professional acts by an occupational therapy assistant**

An occupational therapy assistant –

- (a) shall only perform professional acts under the supervision of an occupational therapist or medical practitioner;
- (b) shall limit the acts referred to in paragraph (a) to acts directly related to his or her education and training in his or her discipline of study;



- (c) shall not accept employment without the prior written approval of the board: Provided that this prohibition shall not apply in the case of a full-time or part-time appointment in the public service;
- (d) shall not conduct a private practice.

### **3. Performance of professional acts by an occupational therapy technician**

An occupational therapy technician –

- (a) shall only perform professional acts under the supervision of an occupational therapist or medical practitioner;
- (b) shall limit the acts referred to in paragraph (a) to acts directly related to his or her education and training in his or her discipline of study;
- (c) shall not accept an appointment without the prior written approval of the board: Provided that this prohibition shall not apply in the case of a full-time or part-time appointment in the public service;
- (d) shall not conduct a private practice.

### **4. Performance of professional acts by a student in occupational therapy**

A student in occupational therapy –

- (a) shall only perform professional acts under the supervision of an occupational therapist or medical practitioner;
- (b) shall limit the acts referred to in paragraph (a) to acts directly related to his or her education and training in occupational therapy.

### **5. Performance of professional acts by an arts therapist**

An arts therapist –

- (a) shall only perform professional acts in the specific registered category of arts therapy;
- (b) shall limit the acts referred to in paragraph (a) to acts directly related to his or her education and training and in which he or she has gained experience, regard being had to both the extent and limits of his or her professional expertise;
- (c) shall not fail to communicate and co-operate, where appropriate with general medical practitioners in the diagnosis and treatment of a patient;
- (d) shall not employ an occupational therapy assistant or an occupational therapy technician without the prior written approval of the board: Provided that this prohibition shall not apply in the case of a full-time or part-time appointment in the public service.



**6. Performance of professional acts by a student in arts therapy**

A student in arts therapy –

- (a) shall only perform professional acts under the supervision of an arts therapist;
- (b) shall limit the acts referred to in paragraph (a) to acts directly related to his or her education and training in the specific category of arts therapy.

**7. Performance of professional acts by a medical orthotist/prosthetist**

A medical orthotist/prosthetist –

- (a) shall only perform professional acts in the field of medical orthotics/prosthetics;
- (b) shall limit the acts referred to in paragraph (a) to acts directly related to his or her education and training and in which he or she has gained experience, regard being had to both the extent and limits of his or her professional expertise;
- (c) shall not fail to communicate and co-operate, where appropriate with general medical practitioners in the diagnosis and treatment of a patient;
- (d) shall not give any treatment in connection with or advice or assistance preparatory to or for the purpose of the manufacture, repair, supply, fitting or fixing of artificial limbs or other similar medical appliances, whether for gain or not, where such appliances are supplied or are to be supplied to the patient by a person who is not a medical orthotist/prosthetist.

**8. Performance of professional acts by an orthopaedic footwear technician**

An orthopaedic footwear technician –

- (a) shall only perform professional acts under the supervision of a medical orthotist/prosthetist or, where the patient has been referred to him by a medical practitioner, under the supervision of such medical practitioner;
- (b) shall not conduct a private practice.

**9. Performance of professional acts by an assistant medical orthotist/prosthetist and leatherworker**

An assistant medical orthotist/prosthetist and leatherworker –

- (a) shall only perform professional acts under the supervision of a medical orthotist/prosthetist;
- (b) shall not conduct a private practice.

**10. Performance of professional acts by a student in medical orthotics/prosthetics**

A student in medical orthotics/prosthetics –

- (a) shall only perform professional acts under the supervision of a medical orthotist/prosthetist;
- (b) shall limit the acts referred to in paragraph (a) to acts directly related to his or her education and training in medical orthotics/prosthetics.

**ANNEXURE 8****PROFESSIONAL BOARD FOR OPTOMETRY AND DISPENSING OPTICIANS****RULES OF CONDUCT SPECIFICALLY PERTAINING TO THE PROFESSION OF OPTOMETRY AND DISPENSING OPTICIANS**

In addition to the rules of conduct referred to in rules 2 to 29 an optometrist, student in optometry, dispensing optician and dispensing optician student shall also adhere to the following rules of conduct. Failure by such optometrist, student in optometry, dispensing optician and dispensing optician student to comply with the following rules of conduct listed herein shall constitute an act or omission in respect of which the board may take disciplinary steps in terms of Chapter IV of the Act:

**1. Performance of professional acts by an optometrist**

An optometrist –

- (a) shall only provide optometric services, including the prescription of spectacle lenses, contact lenses and visual aids or appliances in close collaboration with medical practitioner who had received adequate education and training as approved by the board for this purpose in cases where pathology of the visual system is detected or suspected, or where the patient cannot attain normal single or binocular vision with the aid of corrective lenses or other methods of correction;
- (b) shall only use, in the treatment of a patient a scheduled substance subject to the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965);
- (c) shall not advertise -
  - (i) the cost or no cost of spectacle frames where the advertised price is conditional to or subject to the provision of any other optometric material or service;
  - (ii) the cost of any type of lenses or professional services or of the fact that any type of lenses or professional services are free;
  - (iii) informative material intended for the education of the general public pertaining to lenses or professional services, unless done in the format as approved by the board;
  - (iv) any service item or product which –
    - (aa) is false, misleading or deceptive;
    - (bb) creates an unjustified expectation of beneficial treatment;
    - (cc) promotes unnecessary or inappropriate use of the services of an optometrist;
    - (dd) claims prominence for an optometrist; or
    - (ee) compares the practice of one optometrist with that of another optometrist;
- (d) shall not display a name-plate exceeding 1 500cm<sup>2</sup> in size or a sign on which any information other than the word "Optometrist" or acceptable translations thereof appears;
- (e) shall not expose, to the public from a street, pavement, arcade or similar public thoroughfare, his or her examination rooms or physical consultation areas, including the optometric equipment used for eye examinations and notices relating to the cost of lenses and/or services.



**2. Performance of professional acts by a student in optometry**

A student in optometry –

- (a) shall only perform professional acts under the supervision of an optometrist or medical practitioner;
- (b) shall limit the acts referred to in paragraph (a) to acts directly related to his or her education and training in optometry.

**3. Performance of professional acts by a dispensing optician**

A dispensing optician –

- (a) shall not dispense in any way spectacles to any person except on a prescription written and signed by a medical practitioner or an optometrist: Provided that this rule shall not apply to the repair or replacement of such spectacles or lenses or frames for such spectacles;
- (b) shall not advertise –
  - (i) the cost or no cost of spectacle frames where the advertised price is conditional to or subject to the provision of any other optometric material or service;
  - (ii) the cost of any type of lenses or professional services or of the fact that any type of lenses or professional services are free;
  - (iii) informative material intended for the education of the general public pertaining to lenses or professional services, unless done in the format as approved by the board;
  - (iv) any service, item or product which –
    - (aa) is false, misleading or deceptive;
    - (bb) creates an unjustified expectation of beneficial treatment;
    - (cc) promotes unnecessary or inappropriate use of the services of such dispensing optician;
    - (dd) claims prominence for such dispensing optician; or
    - (ee) compares his or her practice with the practice of another dispensing optician.
- (c) shall not display a name-plate exceeding 1 500cm<sup>2</sup> in size or a sign on which any information other than the word "Dispensing optician" or acceptable translations thereof appears;
- (d) shall not expose, to the public from a street, pavement, arcade or similar public thoroughfare, his or her examination rooms or physical consultation areas, including the optometric equipment used for eye examinations and notices relating to the cost of services.

**4. Performance of professional acts by a dispensing optician student**

A dispensing optician student –

- (a) shall only perform professional acts under the supervision of a dispensing optician;
- (b) shall limit the acts referred to in paragraph (a) to acts directly related to his training in optical dispensing.



**ANNEXURE 9****PROFESSIONAL BOARD FOR PHYSIOTHERAPY, PODIATRY AND BOKINETICS****RULES OF CONDUCT SPECIFICALLY PERTAINING TO THE PROFESSION OF PHYSIOTHERAPY, PODIATRY AND BOKINETICS**

In addition to the rules of conduct referred to in rules 2 to 29 a physiotherapist, physiotherapy assistant, student in physiotherapy, podiatrist, student in podiatry, biokineticist and student in biokinetics shall also adhere to the following rules of conduct. Failure by such physiotherapist, physiotherapy assistant, student in physiotherapy, podiatrist, student in podiatry, biokineticist and student in biokinetics to comply with the following rules of conduct listed herein shall constitute an act or omission in respect of which the board may take disciplinary steps in terms of Chapter IV of the Act:

**1. Performance of professional acts by a physiotherapist**

A physiotherapist –

- (a) shall confine himself or herself to clinical diagnoses and practising in the field of physiotherapy in which he or she was educated and trained and in which he or she has gained experience, regard being had to both the extent and the limitations of his or her professional expertise;
- (b) shall not fail to communicate and co-operate, where appropriate with general medical practitioners in the diagnosis and treatment of a patient;
- (c) shall refer a patient to a practitioner when the patient's problems and needs are beyond the scope of physiotherapy;
- (d) shall not employ a physiotherapy assistant without the prior written approval of the board: Provided that this prohibition shall not apply in the case of full-time or part-time employment in the public service.

**2. Performance of professional acts by a physiotherapy assistant**

A physiotherapy assistant shall not accept an appointment without the prior written approval of the board: Provided that this prohibition shall not apply in the case of a full-time or part-time appointment in the public service.

**3. Performance of professional acts by a student in physiotherapy**

A student in physiotherapy –

- (a) shall only perform professional acts pertaining to physiotherapy under the supervision of a physiotherapist or a medical practitioner;
- (b) shall limit the acts referred to in paragraph (a) to acts directly related to his or her education and training in physiotherapy.

**4. Performance of professional acts by a podiatrist**

A podiatrist –

- (a) shall only investigate and treat disorder which falls within the scope of the profession of podiatry;
- (b) shall only use medicines or surgery in the treatment of any person which shall have been **specifically approved** for that purpose by the board;
- (c) shall only administer local anaesthetic for the purpose of relieving pain, the specific medicine for which shall have been approved by the board and the regulatory authority on medicines;
- (d) shall only perform professional acts requiring general anaesthetic in close collaboration with a medical practitioner.

**5. Performance of professional acts by a student in podiatry**

A student in podiatry –

- (a) shall only perform professional acts pertaining to podiatry under the supervision of a podiatrist or a medical practitioner;
- (b) shall limit the acts referred to in paragraph (a) to acts directly related to his or her education and training in podiatry.

**6. Performance of professional acts by a biokineticist**

A biokineticist –

- (a) shall confine himself or herself to clinical diagnoses and practising in the field of biokinetics in which he or she was educated and trained and in which he or she has gained experience, regard being had to both the extent and the limits of his or her professional expertise;
- (b) shall not fail to communicate and co-operate, where appropriate with general medical practitioners in the diagnosis and treatment of a patient;
- (c) shall refer a patient to a practitioner when the patient's problems and needs are beyond the scope of biokinetics.

**7. Performance of professional acts by a student in biokinetics**

A student in biokinetics –

- (a) shall only perform professional acts pertaining to biokinetics under the supervision of a biokineticist or a medical practitioner;
- (b) shall limit the acts referred to in paragraph (a) to acts directly related to his or her education and training in biokinetics.



**ANNEXURE 10****PROFESSIONAL BOARD FOR RADIOGRAPHY AND CLINICAL TECHNOLOGY****RULES OF CONDUCT SPECIFICALLY PERTAINING TO THE PROFESSION OF RADIOGRAPHY AND CLINICAL TECHNOLOGY**

In addition to the rules of conduct referred to in rules 2 to 29 a radiographer, assistant radiographer, radiation laboratory technologist, student in radiography, student radiation laboratory technologist, graduate clinical technologist/clinical technologist (registered prior to 1 April 2002), clinical technologist (registered after 31 March 2002), assistant clinical technologist, electroencephalography technician, student in clinical technology and student electro-encephalography technician shall also adhere to the following rules of conduct. Failure by such radiographer, assistant radiographer, radiation laboratory technologist, student in radiography, student radiation laboratory technologist, graduate clinical technologist/clinical technologist (registered prior to 1 April 2002), clinical technologist (registered after 31 March 2002), assistant clinical technologist, electroencephalography technician, student in clinical technology and student electro-encephalography technician to comply with the following rules of conduct listed herein shall constitute an act or omission in respect of which the board may take disciplinary steps in terms of Chapter IV of the Act:

**1. Performance of professional acts by a radiographer**

A radiographer –

- (a) shall only perform professional acts at the written request and under the supervision of a practitioner approved by the board for such purpose: Provided that this prohibition shall not apply in respect of –
  - (i) acts pertaining to the profession of radiography determined by the board for such purpose;
  - (ii) a radiographer who complies with the conditions set by the board in this regard and who in the opinion of such board is competent to perform professional acts without supervision at the written request of such practitioner;
  - (iii) a request from such practitioner which in the opinion of the radiographer was based on good and sufficient grounds: Provided that such a request was in writing and signed by the person making the request;
- (b) shall only consult in regard to any work performed by him or her in his or her profession with a practitioner approved by the board at whose instance such work was undertaken;
- (c) shall not interpret radiographical investigations, report thereon or furnish information in regard to any work performed by him or her in his or her profession to any person other than a practitioner approved by the board at whose request such work was undertaken;
- (d) shall not in his or her practice exceed the limits of the category or categories in which he or she is registered.



**2. Performance of professional acts by an assistant radiographer**

An assistant radiographer –

- (a) shall only perform professional acts in radiography under the supervision of a medical practitioner or radiographer;
- (b) shall limit the acts referred to in paragraph (a) to acts directly related to his or her education and training in radiography;
- (c) shall not conduct a private practice;
- (d) shall not perform any diagnostic X-ray examination in any place other than a hospital or facility in the public service or operated by the South African Chamber of Mines or such other facility as may be approved by the board for a specific purpose.

**3. Performance of professional acts by a radiation laboratory technologist**

A radiation laboratory technologist –

- (a) shall only perform professional acts in radiation laboratory technology under the supervision of a medical practitioner or a radiographer;
- (b) shall limit the acts referred to in paragraph (a) to acts directly related to his or her education and training in radiation laboratory technology;
- (c) shall not conduct a private practice.

**4. Performance of professional acts by a student in radiography**

A student in radiography –

- (a) shall only perform professional acts in radiography under the supervision of a medical practitioner or a radiographer;
- (b) shall limit the acts referred to in paragraph (a) to acts directly related to his or her education and training in radiography.

**5. Performance of professional acts by a student radiation laboratory technologist**

A student radiation laboratory technologist –

- (a) shall only perform professional acts in radiation laboratory technology under the supervision of a medical practitioner or a radiographer;
- (b) shall limit the acts referred to in paragraph (a) to acts directly related to his or her education and training in radiation laboratory technology.

**6. Performance of professional acts by a graduate clinical technologist / clinical technologist registered prior to 1 April 2002**

A graduate clinical technologist / clinical technologist registered prior to 1 April 2002 –

- (a) shall confine himself or herself to the performance of professional acts in the field of clinical technology in which he or she was educated and trained and in which he or she has gained experience, regard being had to both the extent and limits of his or her professional expertise;
- (b) shall not fail to communicate and co-operate, where appropriate with general medical practitioners in the treatment of a patient;
- (c) shall only perform professional acts in collaboration with a general medical practitioner or specialist.

**7. Performance of professional acts by a clinical technologist qualified after 31 March 2002**

A clinical technologist who qualified as such after 31 March 2002 –

- (a) shall only perform professional acts under supervision of or in collaboration with a general medical practitioner or specialist;
- (b) shall confine himself or herself to the performance of professional acts in the field of clinical technology in which he or she was educated and trained and in which he or she has gained experience, regard being had to both the extent and limits of his or her professional expertise;
- (c) shall not conduct a private practice;
- (d) shall not fail to communicate and co-operate, where appropriate with general medical practitioners in the treatment of a patient.

**8. Performance of professional acts by an assistant clinical technologist**

An assistant clinical technologist –

- (a) shall only perform professional acts in collaboration with a general medical practitioner, specialist or practitioners approved by the board for such purpose;
- (b) shall confine himself or herself to the performance of professional acts in the field of clinical technology in which he or she was educated and trained and in which he or she has gained experience, regard being had to both the extent and limits of his or her professional expertise;
- (c) shall not conduct a private practice;
- (d) shall not fail to communicate and co-operate, where appropriate with general medical practitioners in the treatment of a patient.

**9. Performance of professional acts by an electroencephalography technician**

An electroencephalography technician –

- (a) shall only perform professional acts under supervision of a general medical practitioner, specialist or practitioners approved by the board for such purpose;
- (b) shall limit the acts referred to in paragraph (a) to acts related to his or her education and training in electroencephalography;
- (c) shall not conduct a private practice;
- (d) shall not fail to communicate and co-operate, where appropriate with general medical practitioners in the treatment of a patient.

**10. Performance of professional acts by a student in clinical technology**

An student in clinical technology –

- (a) shall only perform professional acts under supervision of a general medical practitioner, specialist or practitioner approved by the board for such purpose;
- (b) shall limit the acts referred to in paragraph (a) to acts related to his or her education and training in clinical technology.

**11. Performance of professional acts by a student electro-encephalography technician**

An student electro-encephalography technician –

- (a) shall only perform professional acts under supervision of a general medical practitioner, specialist or practitioner approved by the board for such purpose;
- (b) shall limit the acts referred to in paragraph (a) to acts related to his or her education and training in electro-encephalography technology.



**ANNEXURE 11****PROFESSIONAL BOARD FOR SPEECH, LANGUAGE AND HEARING PROFESSIONS****RULES OF CONDUCT SPECIFICALLY PERTAINING TO THE SPEECH, LANGUAGE AND HEARING PROFESSIONS**

In addition to the rules of conduct referred to in rules 2 to 29 a speech therapist, audiologist, audiometrician, hearing aid acoustician, speech and hearing correctionist, speech and hearing community worker, speech and hearing assistant, student in speech profession, student in language profession and student in hearing profession shall also adhere to the following rules of conduct. Failure by such speech therapist, audiologist, audiometrician, hearing aid acoustician, speech and hearing correctionist, speech and hearing community worker, speech and hearing assistant, student in speech profession, student in language profession and student in hearing profession to comply with the following rules of conduct listed herein shall constitute an act or omission in respect of which the board may take disciplinary steps in terms of Chapter IV of the Act:

**1. Performance of professional acts by a speech therapist and/or audiologist**

A speech therapist and/or audiologist -

- (a) shall confine himself or herself to clinical diagnoses and practising in the field of speech-language therapy and/or audiology in which he or she was educated and trained and in which he or she has gained experience, with due regard to both the extent and the limits of his or her professional expertise;
- (b) shall not fail to communicate and co-operate, where appropriate with general medical practitioners and other practitioners in the diagnosis and treatment of a patient;
- (c) shall refer a patient to a practitioner or educational professional when the patient's problems and needs are beyond the scope of speech-language therapy and/or audiology.

**2. Performance of professional acts by an audiometrician**

An audiometrician -

- (a) shall only practice in the appropriate fields in which he/she has been trained and in which he/she has gained experience, with due regard to both the extent and the limits of his professional expertise;
- (b) shall performance any work in audiometry -
  - (i) under the supervision of an audiologist; or
  - (ii) with the prior written approval of the board, under the direction and supervision of a general medical practitioner or other practitioners approved by the board.

**3. Performance of professional acts by a hearing aid acoustician**

A hearing aid acoustician -

- (a) shall confine himself or herself to practice in the appropriate fields in which he or she has been trained and in which he or she has gained experience, with due regard to both the extent and the limits of his/her professional expertise;
- (b) shall refer a patient to a practitioner when the patient's problem is beyond the scope of the practice of the hearing aid acoustician;
- (c) may diagnose a person's hearing ability;
- (d) may select and fit a hearing aid to children under the age of 10 years, or to persons with multiple handicaps;
- (e) may affix his or her nameplate at the entrance of a pharmacy, unless he or she is also registered as a pharmacist.

**4. Performance of professional acts by a speech and hearing correctionist**

A speech and hearing correctionist -

- (a) shall confine him/herself to practice in the appropriate fields in which he or she has been trained and in which he or she has gained experience, with due regard to both the extent and the limits of his or her professional expertise;
- (b) shall not perform any speech and/or language therapy or audiology, except in a primary school, nursery school or school for the deaf and/or hearing impaired controlled by government or the provincial Department of Education concerned or in such other institution as may be approved for this purpose by the board;
- (c) shall not perform any speech and/or language therapy or audiology, in assessment and treatment clinics associated with education departments or other institutions, except under the direct supervision of a speech therapist and/or audiologist;
- (d) shall not conduct a private practice.

**5. Performance of professional acts by a speech and hearing community worker**

A speech and hearing community worker -

- (a) shall confine himself or herself to the appropriate fields in which he or she has been trained and in which he or she has gained experience, with due regard to both the extent and the limits of his or her professional expertise;
- (b) shall not perform any speech and/or language and hearing community work, except when employed by an institution or establishment recognised by the board;
- (c) shall not perform any speech and/or language and hearing community work in an institution or establishment where a speech therapist and/or audiologist is employed except under the direction of such speech therapist and/or audiologist;



- (d) shall not perform any speech and/or language and hearing community work, except in consultation with a general medical practitioner or, in cases involving oral conditions, in consultation with a dentist;
- (e) shall not perform any speech and/or language and hearing community work where supervision by a speech therapist and/or an audiologist is possible, or regard being had to geographical proximity where such supervision is not possible, in consultation with a speech therapist and/or an audiologist;
- (f) shall not conduct a private practice.

#### **6. Performance of professional acts by a speech and hearing assistant**

A speech and hearing assistant –

- (a) shall confine himself or herself to practice in the appropriate fields in which he or she has been trained and in which he or she has gained experience, with due regard to both the extent and the limits of his or her professional expertise;
- (b) shall only perform professional acts:
  - (i) under the direction and supervision or in the employment of a speech therapist or an audiologist in the health or education sectors; and
  - (ii) with the approval of the board under the direction and supervision of a general medical practitioner or other practitioner registered with the board.
- (c) shall not accept employment without the prior written approval of the board: Provided that this prohibition shall not apply in the case of a full-time or part-time appointment in the health or education sectors in the public service;
- (d) shall not conduct a private practice.

#### **7. Performance of professional acts by a student in the speech, language and hearing professions**

A student in the speech-, language and hearing professions –

- (a) shall only perform professional acts under supervision of a practitioner;
- (b) shall limit the acts referred to in paragraph (a) to acts related to his or her education and training in the profession concerned.



## ANNEXURE 12

## PROFESSIONAL BOARD FOR PSYCHOLOGY

## RULES OF CONDUCT SPECIFICALLY PERTAINING TO THE PROFESSION OF PSYCHOLOGY

In addition to the rules of conduct referred to in rules 2 to 29 a psychologist shall also adhere to the following rules of conduct. Failure by such psychologist to comply with the following rules of conduct listed herein shall constitute an act or omission in respect of which the board may take disciplinary steps in terms of Chapter IV of the Act:

**1. Definitions**

In these rules any word or expression to which a meaning has been assigned in the Act shall bear that meaning, and unless the context otherwise indicates –

**“barter”** means the acceptance of goods, services or other non-monetary remuneration from clients in return for psychological services;

**“board”** means the Professional Board for Psychology established in terms of section 15 of the Act;

**“children”** means persons 14 years and younger and the word “child” has a similar meaning;

**“client”** means a user of psychological services, irrespective of whether the recipient of such services is an individual, a family, a group, an organisation or a community;

**“competency”** means the ability to conduct the psychological actions for which a psychologist was trained and obtained a qualification as prescribed in terms of the Act;

**“confidential information”** means any information conveyed in confidence to a psychologist by a client, a colleague, a collateral source or another professional;

**“health committee”** means a committee established by the council in terms of section 10(1) and the regulations promulgated under section 51 of the Act;

**“intern”** means a person registered as an intern in psychology under the Act;

**“psychological services”** means the acts of psychological assessment, diagnosis and intervention rendered to a client;

**“psychologist”** means a person registered under the Act as a psychologist, registered counsellor, psychometrist, psycho-technician, intern in psychology or student in professional psychology;

**“psychometrist”** means a person registered as a psychometrist in terms of the Act;

**“psycho-technician”** means a person registered as a psycho-technician in terms of the Act;

**“registered counsellor”** means a person registered as a registered counsellor in terms of the Act;

**“section”** means a section of the Act;

**“sexual harassment”** means any act of sexual solicitation, physical advances, or verbal or non-verbal conduct that is sexual in nature, that is committed by a psychologist in the course of his or her professional activities and that is unwelcome or offensive or creates an untenable situation in the workplace or educational environment;

**“student”** means a person registered under the Act as a student in professional psychology;

**“test data”** means the test protocols, record forms, scores and notes regarding an individual's responses to test items in any medium;

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

**“the code”** means these rules.

## CHAPTER 1 PROFESSIONAL COMPETENCE

### 2. General

- (1) A psychologist shall develop, maintain and encourage high standards of professional competence to ensure that clients are protected from professional practices that fall short of international and national best practice standards.
- (2) A psychologist shall be accountable for professional actions in all domains of his or her professional life.

### 3. Competency limits

- (1) A psychologist shall limit his or her practice to areas within the boundaries of his or her competency based on his or her formal education, training, supervised experience and/or appropriate professional experience.

- (2) A psychologist shall ensure that his or her work is based on established scientific and professional knowledge of the discipline of psychology.

**4. Maintaining competency**

A psychologist shall maintain up-to-date competency in his or her areas of practice through continued professional development, consultation and/or other procedures in conformity with current standards of scientific or professional knowledge.

**5. Adding new competencies**

- (1) When a psychologist is developing competency in a psychological service or technique that is either new to him or her or new to the profession, he or she shall engage in ongoing consultation with other psychologists or relevant professions and shall seek and obtain appropriate education and training in the new area.
- (2) A psychologist shall inform a client of the innovative nature of and the known risks associated with such new psychological services or techniques, so that the client may have freedom of choice concerning such services or the application of such techniques.

**6. Extraordinary circumstances**

A psychologist may, when, in an emergency, he or she is asked to provide psychological services for which he or she has not obtained the necessary competency, provide such services to ensure that the client is not denied services.

**7. Personal impairment**

A psychologist who in the opinion of the health committee appears to be impaired as defined in the Act –

- (a) shall refrain from undertaking professional activities when there is the likelihood that his or her personal circumstances (including mental, emotional or physiological conditions, or pharmacological or substance abuse considerations) may prevent him or her from performing such professional activities in a competent manner;
- (b) shall be alert to signs of, and obtain appropriate professional assistance for, his or her personal problems at an early stage in order to prevent impaired performance; and
- (c) shall, if he or she becomes aware of personal circumstances that may interfere with his or her performing his or her professional duties adequately, take appropriate measures, such as



consulting and obtaining the assistance of a professional as determined by the health

committee, to determine whether he or she should limit, suspend or terminate his or her professional duties.

#### **8. Delegation of work**

A psychologist who delegates work to an employee, supervisee, psychometrist, registered counsellor or research or teaching assistant shall take all reasonable steps –

- (a) to avoid delegating such work to such a person who has a multiple relationship with the client that is likely to lead to exploitation or loss of objectivity;
- (b) to authorise only those responsibilities that such a person can be expected to perform competently on the basis of his or her education, training and experience; and
- (c) to ensure that such a person performs those services competently.

#### **9. Use of interpreters**

- (1) When it is clear that a client is not fluent in the psychologist's language, the psychologist shall propose the use of an interpreter to that client.
- (2) An interpreter engaged by a psychologist as contemplated in subrule (1) shall –
  - (a) be fluent in at least the two languages concerned and shall, in particular, be proficient in the client's language of preference.
- (3) A psychologist who engages an interpreter as contemplated in subrule (1) shall take all reasonable steps to ensure that –
  - (a) the interpreter does not have a multiple relationship with a client concerned that is likely to lead to exploitation or loss of objectivity; and
  - (b) the interpreter performs the interpretation tasks competently.

## CHAPTER 2

### PROFESSIONAL RELATIONS

#### 10. Respect for human rights and others

- (1) A psychologist shall, in all his or her professional activities, respect the dignity and human worth of a client and shall strive to preserve and protect the client's fundamental human rights.
- (2) A psychologist shall respect the right of a client to hold values, attitudes, beliefs and opinions that differ from his or her own.
- (3) A psychologist shall recognise a client's inalienable human right to bodily and psychological integrity, including security in and control over his or her body and person, and a client's right not to be subjected to any procedure or experiment without his or her informed consent as contemplated in rule 11 and such consent shall be sought and given in a language that is easily understood by the client.
- (4) A psychologist shall never coerce a client into agreeing that a psychological service be rendered to him or her nor shall a psychologist compel a client to give self-incriminating evidence through the use of psychological techniques or otherwise.

#### 11. Informed consent to professional procedures

- (1) When a psychologist conducts research or provides assessment, psychotherapy, counselling or consulting services in person or via electronic transmission or other forms of communication, he or she shall obtain the written informed consent of the client concerned, using a language that is reasonably understandable to such client.
- (2) While the content of written informed consent as contemplated in subrule (1) will vary depending on the circumstances, informed consent ordinarily requires that a client –
  - (a) has the capacity to consent;
  - (b) has been provided with information concerning participation in the activity that might reasonably be expected to affect his or her willingness to participate, including exceptions to the requirement of confidentiality and monetary or other costs or remuneration;
  - (c) is aware of the voluntary nature of participation and has freely and without undue influence given his or her consent; and

- (d) has had the opportunity to ask questions and be given answers regarding the activities concerned:

Provided that, in the case of a client who is legally incapable of giving informed consent, a psychologist shall nevertheless –

- (i) provide an appropriate explanation;
  - (ii) seek the client's assent;
  - (iii) consider such client's preferences and best interests; and
  - (iv) obtain appropriate permission from a person legally authorised to give consent if such substitute consent is permitted or required by law, but if consent by a legally authorised person is not permitted or required by law, a psychologist shall take all reasonable steps to protect the client's rights and welfare.
- (3) When psychological services are ordered by a court or required administratively or ordered through mediation or arbitration, a psychologist shall –
- (a) before proceeding, inform the individual concerned of the nature of the anticipated services, including whether the services were ordered and whether there are any exceptions to the requirement of confidentiality;
  - (b) appropriately document written or oral consent, permission or assent.

## 12. Unfair discrimination

- (1) A psychologist shall not impose on a client, employee, research participant, student, supervisee, trainee or any other person over whom he or she has or had authority any stereotypes of behaviour, values or roles relating to age, belief, birth, conscience, colour, culture, disability, disease, ethnic or social origin, gender, language, marital status, pregnancy, race, religion, sexual orientation, socio-economic status or any other factor prohibited by law.
- (2) A psychologist shall not unfairly discriminate on the basis of age, belief, birth, colour, conscience, culture, disability, disease, ethnic or social origin, gender, language, marital status, pregnancy, race, religion, sexual orientation, socio-economic status or any other factor prohibited by law.
- (3) A psychologist shall make every effort to ensure that language-appropriate and culture-



appropriate services are made available to a client and that acceptable standards of language proficiency are met in rendering a service to a client whose primary language differs from that of the psychologist.

**13. Sexual harassment**

A psychologist shall not commit sexual harassment.

**14. Other harassment**

A psychologist shall not behave in a manner that is harassing or demeaning to persons with whom he or she interacts in his or her work on the basis of factors such as those persons' age, belief, birth, colour, conscience, culture, disability, disease, ethnic or social origin, gender, language, marital status, pregnancy, race, religion, sexual orientation or socio-economic status.

**15. Avoiding harm**

A psychologist shall take all reasonable steps to avoid harming a client, employee, research participant, student, supervisee, trainee or other person with whom he or she works, including harm through victimisation, harassment or coercion.

**16. Conflict of interest**

A psychologist shall refrain from assuming a professional role when personal, professional, legal, scientific, financial or other interests or relationships could reasonably be expected to –

- (a) impair his or her objectivity, competence or effectiveness in performing his or her functions as a psychologist; or
- (b) expose the client concerned to harm or exploitation.

**17. Third-party requests for service**

- (1) When a psychologist agrees to render a psychological service to a client at the request of a third party, the psychologist shall clarify at the outset of such service the nature of the relationship with each of the parties involved (whether individuals or organisations).
- (2) The clarification referred to in subrule (1) shall cover the role of the psychologist (such as therapist, consultant, diagnostician, expert witness), the probable uses of the psychological service provided or the information obtained, and the fact that there may be exceptions to the requirement of confidentiality.

- (3) If there is a foreseeable risk of the psychologist's being called upon to fulfil conflicting roles because of the involvement of a third party, the psychologist shall clarify the nature of his or her responsibilities, keep all parties properly informed as matters develop, and resolve the situation in accordance with these rules.

## **18. Multiple relationships**

- (1) A multiple relationship occurs when a psychologist fulfils a professional role with respect to a person or organisation and at the same time –
- (a) fulfils or fulfilled another role with respect to the same person or organisation;
  - (b) is in a relationship with a person or organisation closely associated with or related to the person or organisation with whom they have the professional relationship; or
  - (c) promises to enter into another relationship in the future with that person or organisation or a person or organisation closely associated with or related to that person or organisation.
- (2) A psychologist shall refrain from entering into a multiple relationship if that multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence or effectiveness in performing his or her functions as psychologist or cause a risk of exploitation of or harm to the person or organisation with whom the professional relationship exists.
- (3) If a psychologist finds that, owing to unforeseen factors, a potentially harmful multiple relationship has developed, he or she shall attempt to resolve it with due regard to the best interests of the client concerned and maximum compliance with these rules.
- (4) In the circumstances referred to in subrule (3), the psychologist shall assist the client in obtaining the services of another professional, and shall not enter into any professional or other relationship with such client until at least twenty-four months have elapsed after termination of such multiple relationship: Provided that where a client is emotionally or cognitively vulnerable to influencing by such psychologist, no such relationship shall be established between the psychologist and the client.
- (5) When a psychologist is required by law, institutional policy or other circumstances to fulfil more than one role in judicial or administrative proceedings, he or she shall, at the outset, clarify the role expectations and any exceptions to the requirement of confidentiality.



**19. Exploitative relationships**

A psychologist shall not exploit a person over whom he or she has supervisory, evaluative, or other authority, such as a client, employee, research participant, student, supervisee or trainee.

**20. Co-operation with other professionals**

Where indicated and professionally appropriate, a psychologist shall –

- (a) co-operate with such professionals as approved by the board in order to serve his or her clients effectively and appropriately; and
- (b) arrange for appropriate consultations and referrals based on the best interests of his or her clients, subject to such consent and other relevant considerations as may be appropriate, including the applicable legal and contractual obligations.

**21. Interruption of psychological services**

A psychologist shall not abandon a client by terminating the professional relationship prematurely or abruptly, but shall –

- (a) make appropriate arrangements for another psychologist to deal with the needs of the client in the event of an emergency during periods of foreseeable absence when the psychologist will not be available; and
- (b) make every reasonable effort to plan for continuity of service in the event that such service is interrupted by factors such as the psychologist's illness, death, unavailability or relocation or by the client's relocation or financial limitations.

**22. Psychological services rendered to or through organisations**

- (1) A psychologist who renders psychological services to or through an organisation shall, in advance, provide a client with information about –
  - (a) the nature and objectives of the psychological services concerned;
  - (b) the relationship between the psychologist and every individual affected by the psychological services concerned;
  - (c) the uses to which the psychological information provided by a client will be put;



- (d) the persons that will have access to the information referred to in paragraph (c); and
  - (e) exceptions to the requirement of confidentiality.
- (2) As soon as is feasible, a psychologist shall provide the appropriate persons with information about the results and conclusions of the psychological service concerned and if the law or organisational rules prohibit the psychologist from providing particular individuals or groups with information, the psychologist shall so inform the individuals or groups concerned at the outset of the psychological service.

### **23. Delegation and supervision of psychological services**

- (1) A psychologist shall not delegate professional responsibilities to any person who is not qualified to assume such responsibilities.
- (2) A psychologist may delegate to a supervisee, with the appropriate level of supervision, only such professional responsibilities as the supervisee can reasonably be expected to perform competently and ethically on the basis of that supervisee's education, training and experience.
- (3) In order to perform the responsibilities contemplated in subrule (2), a supervisee shall have education and training that was accredited by the board, including training in ethical issues.
- (4) A psychologist shall be responsible for determining the competency of a supervisee and shall not assign to such supervisee, or allow such supervisee to undertake, responsibilities beyond the scope of that supervisee's training and/or competency.
- (5) A psychologist shall be responsible for providing a supervisee with specific instructions regarding the limits of his or her role as a supervisee.
- (6) A supervisee shall fully inform a client receiving psychological services of his or her status as supervisee and of the right of the client to confer with the supervising psychologist with regard to any aspect of the psychological services being performed.
- (7) When a clinical psychological service is rendered, a psychologist shall –
  - (a) take part in the psychological intake process;
  - (b) personally make a diagnosis when a diagnosis is required; and
  - (c) personally approve a treatment plan for each client.

- (8) A psychologist shall, on a continuous and regular basis, personally meet with a supervisee concerning each client and shall review the treatment record, including progress notes, on a regular basis as appropriate to the task to be performed.

### CHAPTER 3 PRIVACY, CONFIDENTIALITY AND RECORDS

#### 24. Rights to confidentiality

- (1) A psychologist shall safeguard the confidential information obtained in the course of his or her practice, teaching, research or other professional duties, subject only to such exceptions to the requirement of confidentiality as may be determined by law or a court of law.
- (2) A psychologist may disclose confidential information to other persons only with the written informed consent of the client concerned.

#### 25. Discussing exceptions to the requirement of confidentiality

- (1) A psychologist is obliged to discuss with persons and organisations with whom he or she establishes a scientific or professional relationship (including, to the extent feasible, persons who are legally incapable of giving informed consent and their legal representatives) the exceptions to the requirement of confidentiality, including any such exceptions that may apply to group, marital or family therapy or to organisational consulting and the foreseeable uses of the information obtained.
- (2) A psychologist shall, unless it is contraindicated, discuss confidentiality at the outset of the relationship and thereafter as new circumstances warrant its discussion.
- (3) A psychologist shall, prior to doing so, obtain permission from the client concerned to record interviews electronically or to transmit information electronically and shall inform the client of the risk of breach of privacy or confidentiality inherent in the electronic recording or transmission of information.
- (4) A psychologist shall, when engaging in electronically transmitted services, ensure that confidentiality and privacy are maintained and shall inform a client of the measures taken to maintain confidentiality.

- (5) A psychologist shall not withhold information from a client who is entitled to that information, provided it does not violate the right to confidentiality of any other person and provided the information requested is required for the exercise or protection of any rights.

## **26. Limits on invasion of privacy**

A psychologist may, in any written report, oral report or consultations with a third party, disclose only such information as is relevant to the purpose for which that communication is made and may discuss confidential information obtained in his or her work only for appropriate scientific or professional purposes and then only with persons with a legitimate interest in such matters.

## **27. Disclosures**

- (1) A psychologist may disclose confidential information –
- (a) only with the permission of the client concerned;
  - (b) when permitted by law to do so for a legitimate purpose, such as providing a client with the professional services required;
  - (c) to appropriate professionals and then for strictly professional purposes only;
  - (d) to protect a client or other persons from harm; or
  - (e) to obtain payment for a psychological service, in which instance disclosure is limited to the minimum necessary to achieve that purpose.
- (2) When required to do so by law or a court of law, a psychologist shall disclose the confidential information so required.

## **28. Multiple clients**

- (1) When more than one client is provided with a psychological service during a joint session (for example with a family or couple, or a parent and child, labour disputants, or a group), a psychologist shall, at the beginning of the professional relationship, clarify to all parties the manner in which confidentiality will be handled.
- (2) All clients referred to in subrule (1) shall be given the opportunity to discuss with the psychologist what information is to remain confidential and what information the psychologist is obliged to disclose.



**29. Legally dependent clients**

- (1) A psychologist shall bear in mind that a child's best interest is of paramount importance in the provision of psychological services that have bearing on the psychological well-being of such child.
- (2) A psychologist shall take special care when dealing with children of the age of 14 years or younger.
- (3) A psychologist shall, at the beginning of a professional relationship, inform a child or a client who has a legal guardian or who is otherwise legally dependent, of the limits the law imposes on that child's or client's right to confidentiality with respect to his or her communication with the psychologist.

**30. Release of confidential information**

A psychologist shall release confidential information when ordered to do so by a court of law or when required to do so by law or when authorised to do so in writing by the client concerned or the parent or legal guardian of a minor client.

**31. Reporting abuse of children and vulnerable adults**

A psychologist shall, in terms of any relevant law or by virtue of professional responsibility, report the abuse of any child or vulnerable adult.

**32. Professional consultations**

- (1) When a psychologist renders professional psychological services as part of a team or when he or she interacts with other professionals concerning the welfare of a client, the psychologist may share confidential information about that client with such team members or other professionals: Provided that the psychologist take all reasonable steps to ensure that all persons who receive such information are informed of its confidential nature and are bound by the rule of professional confidentiality.
- (2) When consulting with colleagues, a psychologists –
  - (a) shall not disclose confidential information that could reasonably be expected to lead to the identification of a client, research participant or other person or organisation with whom he or she has a confidential relationship unless –

- (i) he or she has obtained the prior consent of the client, research participant, person or organisation concerned; or
  - (ii) the disclosure cannot be avoided; and
- (b) may disclose information only to the extent necessary to achieve the purposes of the consultation.

**33. Disguising confidential information used for didactic or other purposes**

A psychologist shall not disclose in his or her writings or lectures or in any other public way confidential information or information that can be linked to an identifiable person which he or she obtained in the course of his or her work with a client, organisation, research participant, supervisee, student or other recipient of his or her psychological services, unless –

- (a) he or she has taken all reasonable steps to disguise the identity of such client, organisation, research participant, supervisee, student or other recipient;
- (b) such client, organisation, research participant, supervisee, student or other recipient has consented to such disclosure in writing; or
- (c) there is other ethical or legal authorisation to do so.

**34. Maintenance, dissemination and keeping of records**

- (1) A psychologist shall create, maintain, store, disseminate and retain records and data relating to his or her scientific and professional work in order to –
- (a) facilitate the efficacious provision of services by him or her or another professional;
  - (b) allow for replication of research design and analysis;
  - (c) meet institutional requirements;
  - (d) ensure accuracy of billing and payments;
  - (e) facilitate subsequent professional intervention or inquiry; and
  - (f) ensure compliance with all applicable legal provisions.

- (2) A psychologist shall maintain confidentiality in creating, storing, accessing, transferring and disposing of records under his or her control, whether these are kept in written, automated or any other form.
- (3) A psychologist shall, if confidential information concerning users of psychological services is entered into a database or system of records available to persons whose access has not been consented to by the user, use coding or other techniques to avoid the inclusion of personal identifiers.
- (4) A psychologist shall plan in advance to facilitate the appropriate transfer and to protect the confidentiality of records and data in the event of his or her unavailability through factors such as death, incapacity or withdrawal from practice.

#### **CHAPTER 4**

#### **FEES AND FINANCIAL ARRANGEMENTS**

##### **35. Agreement about fees**

Notwithstanding the provisions of paragraph 36(1), a psychologist and client or other user of psychological services concerned may negotiate a fee as early as is feasible in a professional or scientific relationship.

##### **36. Overcharging**

- (1) A psychologist shall not exploit a user of psychological services or payers with regard to fees.

##### **37. Accuracy in billing**

A psychologist shall not misrepresent his or her fees, nor bill for psychological services partially rendered or not rendered at all.

##### **38. Limitations**

If limitations on the provision of psychological services are anticipated because of financial limitations, a psychologist shall, as early as is feasible, discuss such limitations with the client or other user of the psychological services concerned.



**39. Collection of outstanding fees**

- (1) If a client does not pay for psychological services as agreed with the psychologist concerned, and if the psychologist wishes to use a collection agency or take legal steps to collect any outstanding fees, he or she shall first inform the client that such measures will be taken and shall afford the client the opportunity to make prompt payment.
- (2) A psychologist shall only use a collection agent who is reputable and licensed with the Council for Debt Collectors and who will not bring the profession of psychology into disrepute.

**40. Withholding information, reports or records owing to non-payment**

A psychologist shall not, on the grounds of non-payment of fees, withhold information, reports or records under his or her control which are required for the treatment of the client concerned or for any court action.

**41. Account itemisation**

- (1) A psychologist shall submit billing claims to third-party funders which clearly state who provided the psychological services.
- (2) When a psychologist supervises another professional, including the intern, registered counsellor, psychometrist, psycho-technician or student who primarily provided the psychological services, the itemised bill and/or reimbursement form shall contain such psychologist's signature as supervisor and the other professional's signature as service provider. There may be no ambiguity as to who the direct service provider was.

**42. Barter with clients**

A psychologist may barter only if –

- (a) it is not professionally contraindicated;
- (b) the resulting arrangement is not exploitative; and
- (c) it is the client's only mode of remuneration for the psychological service provided.

**43. Withholding of emergency services**

A psychologist shall not withhold emergency psychological services because the client is unable to guarantee remuneration for such services.

**CHAPTER 5  
ASSESSMENT ACTIVITIES****44. Assessment in a professional context**

- (1) A psychologist shall perform evaluations and diagnostic services only in the context of a defined professional relationship.
- (2) Assessments, recommendations, reports and psychological diagnostic or evaluative statements by a psychologist shall be based on information and techniques sufficient to substantiate his or her findings.
- (3) A psychologist may provide an opinion of the psychological characteristics of a client only after he or she has conducted an examination of such client that is professionally adequate to support his or her findings.
- (4) When, despite reasonable efforts, an examination referred to in subrule (3) is not practical, a psychologist shall document the efforts made, and shall state the probable impact of his or her limited information on the reliability and validity of his or her opinions, and limit the nature and extent of his or her findings accordingly.
- (5) When a group assessment is conducted, the psychologist concerned shall declare the limits to his or her findings taking into account that "limits" implies that the score of a group has less reliability and validity than an individually-derived score.
- (6) When a psychologist conducts a review of records and the examination of a client is not warranted or necessary to give an opinion, the psychologist shall declare the limits to his or her findings taking into account that "limits" implies that the score of a group has less reliability and validity than an individually-derived score.
- (7) When any electronic, internet or other indirect means of assessment is used, the psychologist concerned shall declare this and appropriately limit the nature and extent of his or her findings accordingly.

**45. Appropriate use of assessment methods**

A psychologist who develops, administers, scores, interprets or otherwise uses psychological assessment techniques, interviews, tests, instruments or other measures referred to in the Act shall –

- (a) do so in a manner and for purposes that are appropriate in the light of the research or evidence of the usefulness and proper application of such assessment methods; and
- (b) refrain from the misuse of assessment techniques, interventions, results and interpretations and take all reasonable steps to prevent others from misusing the information such methods provide, and such misuse includes releasing raw test results or raw data to persons, other than the clients concerned, who are not qualified to use that information.

**46. Informed consent in assessments**

- (1) A psychologist shall obtain the written informed consent of a client for assessments, evaluations or diagnostic services.
- (2) The written informed consent referred to in subrule (1) shall contain at least the following:
  - (a) Personal details of the client concerned;
  - (b) the exact nature of the psychological service(s) to be provided; and
  - (c) any limits inherent in providing psychological services to the client, for example –
    - (i) a client's right to refuse participation;
    - (ii) exceptions to the requirement of confidentiality; or
    - (iii) any potential harmful effects inherent in providing the psychological services concerned.
- (3) Written informed consent as contemplated in subrule (1) is not necessary when –
  - (a) testing is a legal requirement;
  - (b) informed consent is implied because testing is conducted as a routine educational, institutional or organisational activity (as in job interview testing); or



- (c) the purpose of the testing by the psychologist is to evaluate decision-making and mental incapacity.
- (4) A psychologist shall inform a client with questionable capacity to consent or for whom testing is required by law, of the nature and purpose of the proposed assessment services, using language that is reasonably understandable to the client being assessed.
- (5)
  - (a) A psychologist shall, when using the services of an interpreter, obtain the informed consent of a client to use the interpreter, and shall take all reasonable steps to ensure that the confidentiality of test results and test security are maintained, and shall discuss any limitations of the data obtained.
  - (b) A psychologist shall remain cognizant of the limits to data obtained via the use of an interpreter and frame his or her conclusions and recommendations accordingly.
- (6) A psychologist shall, when conducting automated or internet-based testing, obtain the informed consent of the client and shall –
  - (a) ensure that the confidentiality of test results and test security are maintained; and
  - (b) discuss with the client any limitations of the data obtained.

#### **47. Test development**

A psychologist who develops and conducts research with tests and other assessment methods shall use scientific procedures and current professional knowledge for test design, standardisation, validation, reduction or elimination of bias, and recommendations for use.

#### **48. Cultural diversity**

A psychologist who performs interventions or administers, scores, interprets or uses assessment methods shall –

- (a) be familiar with the reliability, validation and related standardisation or outcome studies and the proper applications and uses of the methods he or she uses;
- (b) recognise limits to the certainty with which diagnoses, findings or predictions can be made about individuals, especially where there are linguistic, cultural and socio-economic variances; and
- (c) make every effort to identify situations in which particular assessment methods or norms

may not be applicable or may require adjustment in administration, scoring and interpretation because of factors such as age, belief, birth, colour, conscience, culture, disability, disease, ethnic or social origin, gender, language, marital status, pregnancy, race, religion, sexual orientation or socio-economic status.

**49. Communication of results**

A psychologist shall ensure that the communication of results of assessment procedures to a client, parent, legal guardian or other person legally authorised to receive such results on behalf of the client is accompanied by such adequate interpretative aids or explanations as may be necessary.

**50. Information for professional users**

- (1) A psychologist who offers an assessment procedure or automated interpretation service to another professional shall conduct such service in accordance with the best-practice guidelines for psychometry applicable at the time.
- (2) A psychologist shall explicitly state the purpose and application for which the procedure is recommended and identify any special qualifications required to administer, score and interpret it properly, and shall ensure that any advertisements for the assessment procedure or interpretative service are factual and descriptive.

**51. Interpreting assessment results**

- (1) When a psychologist interprets assessment results, including automated interpretations he or she shall take into account the various test factors and characteristics of the client being assessed, such as situational, personal, linguistic and cultural differences that might affect the client's judgements and reduce the validity of the psychologist's interpretations.
- (2) A psychologist shall indicate any significant reservations he or she may have about the accuracy of his or her interpretation.

**52. Explaining assessment results**

- (1) Unless the nature of the relationship is clearly explained in advance to the client being assessed by the psychologist concerned and precludes providing an explanation of the results, for instance in some organisational consulting, pre-employment or security screening and forensic evaluations, the psychologist shall ensure that the explanation of the results is given in language that is reasonably understandable to the client concerned or to another person legally authorised to receive such explanation on behalf of the client.

- (2) Regardless of whether the administration, scoring and interpretation of tests are done by a psychologist or by others working with or under such psychologist, or by automated or other outside services, the psychologist concerned shall take all reasonable steps to ensure that appropriate explanations of results are given.

**53. Test scoring and interpretation services**

A psychologist who offers assessment or scoring procedures to other professionals shall –

- (a) accurately describe the purpose, norms, validity, reliability and applications of the procedures and any special qualifications applicable to their use: Provided that the psychologist shall explicitly state the language, cultural and any other limitations of the norms.
- (b) select scoring and interpretation services (including automated services) on the basis of evidence of the validity and reliability of the programme and procedures, as well as other appropriate considerations; and
- (c) retain responsibility for the appropriate safety, administration, application, interpretation and use of assessment instruments, whether he or she administers, scores and interprets such tests himself or herself or uses automated or other services.

**54. Release of test data**

- (1) A psychologist may release test data to another psychologist or another qualified professional by virtue of informed written consent by the client concerned.
- (2) A psychologist shall not release test data to a person who is not qualified to use such information, except –
  - (a) as required by law or a court order;
  - (b) by virtue of informed written consent by the client concerned;
  - (c) to the client concerned; and
- (3) A psychologist may refrain from releasing test data referred to in subparagraph (2) to protect his or her client from harm.



**55. Obsolete tests and outdated test results**

A psychologist shall not base –

- (a) his or her assessment or intervention decision or recommendation on data or test results that are outdated for the current purpose; or
- (b) such a decision or recommendation on tests and measures that are obsolete and not useful for the current purpose, but shall ensure that tests used have been classified by the board and that the provisions of any applicable legislation, such as the Employment Equity Act, 1998 (Act No. 55 of 1998), have been complied with.

**56. Maintaining test security**

A psychologist shall take all reasonable steps to maintain the integrity and security of tests and other assessment techniques consistent with the law and the code.

## **CHAPTER 6 THERAPEUTIC ACTIVITIES**

**57. Informed consent to therapy**

When obtaining informed consent to therapy as required in Standard Informed Consent Forms, a psychologist shall, as early as is feasible in the therapeutic relationship, provide the client concerned with appropriate information, including information about the nature and anticipated course of therapy, the fees, the involvement of third parties and confidentiality, and when –

- (a) obtaining the informed consent of a client for treatment involving emerging areas in which generally recognised techniques and procedures have not been established, the psychologist shall inform the client of the developmental nature of the treatment, the potential risks involved, alternative treatments that may be available, and the voluntary nature of the client's participation; and
- (b) the psychologist is a trainee and the legal responsibility for the treatment provided resides with the supervisor, the client shall, as part of the informed consent procedure, be informed that the therapist is in training and is being supervised and the client shall be given the name of the supervisor.

**58. Couples or family therapy**

- (1) When a psychologist agrees to render psychological services to two or more persons who have a relationship, such as spouses, significant others, parents or children, the psychologist –
  - (a) shall clarify at the outset which of the individuals are clients and the relationship such psychologist will have with each person;
  - (b) may be called on to perform potentially conflicting roles such as a family therapist and then as a witness in divorce proceedings; and
  - (c) shall clarify and modify or withdraw from roles appropriately.
- (2) The clarification referred to in subparagraph (1)(a) includes the psychologist's role and the probable use of the psychological services provided or the information obtained.

**59. Group therapy**

When a psychologist provides psychological services to several persons in a group setting, the psychologist shall, at the outset, describe the roles and responsibilities of all parties and any exceptions to the requirement of confidentiality.

**60. Therapy for those served by others**

- (1) In deciding to render psychological services to those already receiving mental health services, a psychologist shall carefully consider the treatment issues and the potential client's welfare.
- (2) A psychologist shall discuss the issues contemplated in subrule (1) with the potential client or the legally authorised person of such client for example parent, guardian, attorney or juristic person in a correctional services or juvenile justice setting such as a reformatory in order to minimise the risk of confusion and conflict, consult with the other service providers when appropriate and proceed with caution and sensitivity to the therapeutic issues.

**61. Sexual intimacies with current therapy clients**

A psychologist shall not engage in sexual intimacies of any nature (whether verbal, physical or both) with current client.

**62. Sexual intimacies with relatives or significant others of current clients or patients**

- (1) A psychologist shall not engage in sexual intimacies with an individual he or she knows to be the parent, guardian, spouse, significant other, child or sibling of a current client.
- (2) A psychologist shall not terminate therapy to circumvent the standard referred to in subparagraph (1).

**63. Therapy for former sexual partners**

A psychologist shall not accept as a client any person with whom he or she has engaged in sexual intimacies.

**64. Sexual intimacies with former clients**

A psychologist shall not engage in sexual intimacies with a former client for at least 24 months after termination of professional relationship and the onus rests on a psychologist who enters into a sexual relationship with a former client after such a period to demonstrate that there has been no exploitation, bearing in mind all relevant factors, including –

- (a) the period of time that has elapsed since the professional relationship was terminated;
- (b) the nature, duration, and intensity of the professional relationship;
- (c) the circumstances of the termination of professional relationship;
- (d) the client's personal history;
- (e) the client's current mental status;
- (f) the likelihood of an adverse effect on the client; and
- (g) any statements made or actions taken by the psychologist in the course of professional relationship suggesting or inviting the possibility of a post-termination sexual or romantic relationship with the client.

**65. Interruption of professional services**

When entering into employment or contractual relationships, or where third-party payers are involved, a psychologist shall take all reasonable steps to provide for the orderly and appropriate



resolution of his or her responsibility for client care in the event that the employment or contractual relationship ends, with paramount consideration given to the welfare of the client.

**66. Terminating professional services**

- (1) A psychologist shall terminate professional services inclusive of therapy for a client when it becomes reasonably clear that the client no longer needs the psychological service concerned or is not likely to benefit or is being harmed by continuing that psychological service.
- (2) A psychologist may terminate psychological services when threatened or endangered in any way by a client or another person with whom that client has a relationship, in which circumstances careful thought shall be given to an appropriate referral or disposition plan.
- (3) Except where precluded by the actions of a client or third-party payer, a psychologist shall, prior to termination, provide pre-termination counselling and suggest alternative service providers, if appropriate.

**CHAPTER 7  
PSYCHO-LEGAL ACTIVITIES**

**67. Competence**

- (1) A psychologist who performs psycho-legal (including forensic) functions, such as assessments, interviews, consultations, reports or expert testimony, shall comply with all the provisions of these rules to the extent that they apply to such activities.
- (2) A psychologist shall base his or her psycho-legal work on appropriate knowledge of and competence in the areas underlying such work, including specialised knowledge concerning specific populations.

**68. Basis for psycho-legal opinion**

A psychologist shall ensure that psycho-legal assessments, recommendations and reports are based on information and techniques sufficient to provide appropriate substantiation for the findings.

**69. Qualified opinions**

A psychologist may provide written or oral psycho-legal reports or testimony about the psychological characteristics of a client only after he or she has conducted an examination of the client which is

adequate to support his or her findings: Provided that when, despite reasonable efforts, such an examination is not feasible, the psychologist shall clarify the effect of his or her limited information on the reliability and validity of his or her reports and testimony, and limit the nature and extent of his or her findings accordingly.

#### **70. Truthfulness and candour**

In psycho-legal testimony and reports, a psychologist shall –

- (a) testify truthfully, honestly and candidly and in a manner consistent with the applicable legal procedures; and
- (b) describe fairly the basis for his or her testimony and conclusions.

#### **71. Conflicting roles**

- (1) A psychologist shall avoid performing multiple and potentially conflicting roles in psycho-legal matters.
- (2) When a psychologist may be called on to serve in more than one role in legal proceedings, for example as a consultant or expert for one party or for the court and as a witness on the facts, he or she shall, in advance and to the extent feasible, clarify his or her role expectations and any exceptions to the requirement of confidentiality in order to avoid compromising his or her professional judgement and objectivity.

#### **72. Maintenance of expert-witness role**

A psychologist shall be aware of the conflicting demands made on him or her by the code and the requirements of the court system, and shall attempt to resolve such conflict by making known his or her commitment to these rules and by taking steps to resolve such conflict in a responsible manner.

#### **73. Prior relationships**

- (1) A prior professional relationship with a client shall not preclude a psychologist from testifying as a witness on the facts to the extent permitted by law.
- (2) A psychologist shall take into account the ways in which a prior relationship might affect his or her professional objectivity or opinion and disclose the potential conflict to the attorney or presiding officer whether a client or not.

**74. Role as witness on the facts**

- (1) When a psychologist is required by a court to appear as a witness on the facts, the psychologist is legally obliged to present evidence.
- (2) A psychologist may declare his or her reluctance to appear as a witness on the facts by appearing as a witness under protest.
- (3) Irrespective of whether a psychologist appears as a witness under protest or not, he or she shall be a truthful and fully disclosing witness.

**CHAPTER 8****ACTIVITIES IN RESPECT OF ADVERTISING AND OTHER PUBLIC STATEMENTS****75. Accuracy in professional representation**

- (1) A psychologist shall not misrepresent in any manner his or her professional qualifications with regard to education, experience or areas of competence.
- (2) A psychologist shall not make false, deceptive or fraudulent statements concerning –
  - (a) his or her education and training, experience or competence;
  - (b) his or her academic and/or professional qualifications;
  - (c) his or her credentials;
  - (d) his or her institutional, association or professional society affiliations;
  - (e) the psychological services he or she provides;
  - (f) the clinical or scientific basis for or the results or degree of success of his or her psychological services;
  - (g) his or her fees; or
  - (h) his or her publications or research findings;
- (3) A psychologist may claim a qualification as a credential for his or her psychological services only if such qualification –



- (a) was obtained from a nationally accredited institution; or
- (b) formed the basis for his or her registration with the board.

#### 76. Statements by others

A psychologist who engages others to create or place a public statement that promotes his or her professional practice, products or activities shall retain professional responsibility for such statements and –

- (a) shall not compensate employees of the press, radio, television or other communication medium in return for publicity in a news item;
- (b) if a paid advertisement pertaining to the psychological services rendered by that psychologist is published, such services must be identified or clearly recognisable unless it is already apparent from the context of that advertisement;
- (c) when a psychologist provides advice or comment by means of a public lecture, demonstration, radio or television programme, pre-recorded tape, printed article, mailed material, internet or other electronic transmission, or any other media, he or she shall take all reasonable precautions to ensure that –
  - (i) such advice or comment is based on appropriate psychological literature and practice and is consistent with these rules; and
  - (iii) the recipients of such advice or comment are not encouraged to infer that a personal relationship has been established between the psychologist concerned and them;
- (d) shall not solicit testimonials from a current client or any other person who, because of his or her particular circumstances, is vulnerable to undue influence;
- (e) shall take immediate steps to correct any misrepresentation of himself or herself that may be made by others in any media.

#### 77. In-person solicitation

- (1) A psychologist shall not engage, directly or through an agent, in uninvited in-person solicitation of business from actual or potential clients or other persons who, because of their particular circumstances, are vulnerable to undue influence.
- (2) The prohibition contained in subrule (1) does not preclude a psychologist from –

- (a) attempting to establish appropriate collateral contacts for the purpose of benefiting a client; or
- (b) providing emergency, disaster or community outreach psychological services.

**78. Description of workshops and educational programmes**

- (1) A psychologist associated with an announcement, flyer, brochure or advertisement which describes a workshop, seminar or educational programme for non-degree purposes shall ensure that such announcement, flyer, brochure or advertisement accurately describes –
  - (a) the audience for which such workshop, seminar or programme is intended;
  - (b) the educational objectives;
  - (c) the presenters;
  - (d) the fees involved; and
  - (e) the restrictions on practice namely that such workshop, seminar or programme does not allow people to claim competencies beyond those provided by the workshop.
- (2) A workshop, seminar or programme referred to in subrule (1) shall not create any impression with a person not registered with the council as a psychologist that such workshop, course or programme will lead to registration as a psychologist

**CHAPTER 9**

**TEACHING, TRAINING AND SUPERVISION**

**79. Design of education and training programmes**

A psychologist responsible for an education and training programme shall seek to ensure that such programme is competently designed and provides for proper education and training and meets the requirements for competency which it claims to provide and meet.

**80. Descriptions of education and training programmes**

- (1) A psychologist responsible for an education and training programme shall provide a current and accurate description of the programme content, training goals and objectives, and shall set

objective requirements that must be met for entrance into and satisfactory completion of that programme.

- (2) The psychologist concerned shall ensure that the description of the programme contents, training goals and objectives, and the objective requirements referred to in subrule (1) are readily available to all interested parties.

#### **81. Accuracy and objectivity in teaching**

When engaged in teaching or training, a psychologist shall –

- (a) present psychological information accurately and with a reasonable degree of objectivity; and
- (b) recognise the power he or she holds over students, supervisees and trainees, and shall therefore make every reasonable effort to avoid engaging in conduct that is demeaning to such persons and shall ensure that the constitutional rights of such persons are upheld.

#### **82. Student or trainee disclosures**

A psychologist shall not require a student, supervisee or trainee to disclose, either orally or in writing, personal information regarding his or her sexual history, history of abuse or neglect, psychological treatment, or relationship with a parent, peer, or spouse or significant other, except if such information is necessary to evaluate or obtain assistance for such student, supervisee or trainee whose personal problems could reasonably be judged to be preventing him or her from performing his or her work-related activities in a competent manner or posing a threat to himself or herself or others.

#### **83. Mandatory individual or group therapy or experiential activities**

- (1) A psychologist shall not impose individual or group therapy on any trainee student as a mandatory programme requirement.
- (2) Where individual or group therapy is recommended in a programme, the psychologist associated with that programme shall allow a student, supervisee or trainee the option of –
  - (a) withdrawing from such therapy; or
  - (b) selecting similar therapy outside the programme.

#### **84. Assessing performance**

In an academic and supervisory relationship, a psychologist shall establish an appropriate process for



providing feedback to a student, supervisee or trainee, and the psychologist shall evaluate such student, supervisee or trainee on the basis of his or her actual performance on relevant and established programme requirements determined objectively by the psychologist.

**85. Sexual intimacies with a student, supervisee or trainee**

A psychologist shall not engage in a sexual relationship with a student, supervisee or trainee who is in his or her department, agency or training centre or over whom the psychologist has or is likely to have evaluative authority.

**CHAPTER 10  
RESEARCH AND PUBLICATION**

**86. Compliance with law and standards**

A psychologist shall plan and conduct research in a manner consistent with the law, internationally acceptable standards for the conduct of research, in particular those national and international standards for research with human participants and animal subjects.

**87. Institutional approval**

A psychologist shall –

- (a) obtain written approval from the host institution or organisation concerned prior to conducting research;
- (b) provide the host institution or organisation with accurate information about his or her research proposals; and
- (c) conduct the research in accordance with the research protocol approved by the institution or organisation concerned.

**88. Research responsibilities**

Prior to conducting research (except research involving only anonymous surveys or naturalistic observations, or similar research), a psychologist shall enter into an agreement with every participant that sets out the nature of the research and the responsibilities of each party.

**89. Informed consent to research**

- (1) A psychologist shall use language that is reasonably understandable to the research participant concerned in obtaining his or her informed consent.
- (2) Informed consent referred to in subrule (1) shall be appropriately documented, and in obtaining such consent the psychologist shall –
  - (a) inform the participant of the nature of the research;
  - (b) inform the participant that he or she is free to participate or decline to participate in or to withdraw from the research;
  - (c) explain the foreseeable consequences of declining or withdrawing;
  - (d) inform the participant of significant factors that may be expected to influence his or her willingness to participate (such as risks, discomfort, adverse effects or exceptions to the requirement of confidentiality);
  - (e) explain any other matters about which the participant enquires;
  - (f) when conducting research with a research participant such as a student or subordinate, take special care to protect such participant from the adverse consequences of declining or withdrawing from participation;
  - (g) when research participation is a course requirement or opportunity for extra credit, give a participant the choice of equitable alternative activities; and
  - (h) in the case of a person who is legally incapable of giving informed consent, nevertheless–
    - (i) provide an appropriate explanation;
    - (ii) obtain the participant's assent; and
    - (iii) obtain appropriate permission from a person legally authorised to give such permission.

**90. Dispensing with informed consent**

Before deciding that planned research (such as research involving only anonymous questionnaires, naturalistic observations, or certain kinds of archival research) does not require the informed consent

of a participant, a psychologist shall consider the applicable regulations and institutional review board requirements, and shall consult with colleagues as may be appropriate.

**91. Informed consent in research filming or recording**

A psychologist shall obtain the informed consent of the participant concerned prior to filming or recording him or her in any way, unless the research simply involves naturalistic observations in public places and it is not anticipated that the film or recording will be used in a manner that could cause the participant to be identified or harmed.

**92. Offering inducements to research participants**

In offering professional psychological services as an inducement to obtain the participation of a person in research, a psychologist shall –

- (a) explain the nature of such services, as well as the risks, obligations and limitations involved; and
- (b) not offer excessive or inappropriate financial or other inducements to obtain the person's participation, particularly when it might tend to exert undue influence on that person to participate.

**93. Deception in research**

- (1) A psychologist shall not conduct a study involving deception unless he or she has established that the use of deceptive techniques is justified by the study's prospective scientific, educational or applied value and that equally effective alternative procedures that do not use deception are not feasible.
- (2) Under no circumstances may a psychologist deceive a research participant about significant matters that would affect such participant's willingness to participate, such as physical risks, discomfort or unpleasant emotional experiences.
- (3) Any other deception that is an integral feature of the design and conduct of an experiment shall be explained by a psychologist to a research participant as early as is feasible, preferably at the conclusion of that participant's participation, but not later than at the conclusion of the research.

**94. Debriefing of research participants**

A psychologist shall, without delay, afford a participant the opportunity to obtain appropriate information about the nature, results and conclusions of the research, and the psychologist shall attempt to correct any misconceptions that that participant may have and –



- (a) if scientific or humane values justify delaying or withholding such information, the psychologist shall take reasonable measures to reduce the risk of harm; or
- (b) when the psychologist becomes aware that research procedures have harmed the participant, he or she shall take all reasonable steps to minimise the harm.

**95. Care and use of animals in research**

A psychologist who conducts research involving animals shall treat such animals humanely and according to international standards.

**96. Reporting research results**

A psychologist shall not fabricate data or falsify results in any publication of research findings such as book, journal article, in-house professional report etc and if he or she discovers significant errors in any published data, he or she shall take all reasonable steps to correct those errors in a correction, retraction, erratum or other appropriate means of publication.

**97. Plagiarism**

A psychologist shall not present substantial portions or elements of another person's work or data as his or her own, even if the other work or data source is cited occasionally.

**98. Publication credit**

- (1) A psychologist may take responsibility and credit, including authorship credit, only for –
  - (a) work he or she has actually performed or to which he or she has contributed;
  - (b) principal authorship or other publication credits if these accurately reflect his or her relative scientific or professional contribution to the publication concerned, regardless of his or her relative status;
  - (c) minor contributions to research or publications, which shall be appropriately acknowledged such as in footnotes or in an introductory statement.
- (2) The mere holding of an institutional position, such as chair of a department, shall not entitle a psychologist to any authorship credit.
- (3) A student shall be listed as principal author of any multiple-authored article if that article is substantially based on such student's dissertation or thesis.

**99. Publication of non-original data**

- (1) A psychologist shall not publish as original data that has been published previously.
- (2) Subrule (1) does not preclude the republication of data when it is accompanied by proper acknowledgement of the original author.

**100. Sharing data**

After research results have been published, a psychologist shall not withhold the data on which his or her conclusions are based from other competent professionals who seek to verify the substantive claims through re-analysis and who intend to use such data only for that purpose: Provided that confidentiality with respect to any research participant can be maintained and legal rights concerning proprietary data do not preclude the release thereof.

**101. Professional reviewers**

A psychologist who reviews material or submissions submitted for a publication or a grant or as a research proposal shall respect the confidentiality of and the proprietary rights in that material which are vested in those who submitted such material or submissions.

## **CHAPTER 11**

### **RESOLVING ETHICAL ISSUES**

**102. Uncertainty about ethical issues**

When a psychologist is uncertain whether a particular situation or course of action would violate these rules, he or she shall consult with another psychologist knowledgeable about ethical issues, with an appropriate national psychology ethics committee, or with another appropriate authority in order to make the proper decision.

**103. Conflicts between ethics and the law**

- (1) If a psychologist's ethical responsibilities conflict with the law, such psychologist shall make known his or her commitment to these rules and take steps to resolve the conflict.
- (2) If the conflict referred to in subrule (1) cannot be resolved, the psychologist concerned shall comply with the requirements of the law.

**104. Conflicts between ethics and organisational demands**

If the demands of an organisation with which a psychologist is affiliated, conflict with these rules, the psychologist shall clarify the nature of the conflict, shall make known his or her commitment to these rules and shall, to the extent feasible, seek to resolve the conflict in a way that permits the fullest compliance with these rules.

**105. Informal resolution of ethical violations**

When a psychologist believes that there may have been an ethical violation by another psychologist, he or she shall attempt to resolve the issue by bringing it to the attention of that other psychologist if an informal resolution appears appropriate and the intervention does not violate any confidentiality rights that may be involved.

**106. Reporting ethical violations**

- (1) If the informal resolution of an apparent ethical violation is not appropriate or if such a violation cannot properly be resolved in that fashion, a psychologist shall take such further action as is appropriate to the situation, unless that action conflicts with confidentiality rights in ways that cannot be resolved.
- (2) Any action referred to in subrule (1) may include referral to an appropriate professional ethics committee or colleague for arbitration, conciliation, or advice on a further course of action.

**107. Reporting colleague impairment**

- (1) If a psychologist has a reasonable basis for suspecting that a colleague is professionally impaired owing to a psychological disturbance, a physical illness or substance abuse, he or she shall timeously inform the health committee of his or her concerns.
- (2) Where a psychologist informs the health committee as contemplated in subrule (1), factual proof shall not be required, provided the concerns are *bona fide*.
- (3) The health committee shall consider the matter and may initiate an investigation by the appropriate organ of the board.

**108. Co-operating with ethics committees**

- (1) A psychologist shall give his or her full co-operation with respect to an ethics investigation, any proceedings or any related requirements of the board and shall, for purposes of such investigation, proceedings or requirements, make a reasonable effort to resolve any issues



relating to confidentiality.

- (2) Failure by a psychologist to co-operate as contemplated in subrule (1) shall in itself be an ethics violation.

#### **109. Improper complaints**

A psychologist shall not file or encourage the filing of an ethics complaint that is frivolous and is intended to harm the psychologist against whom the complaint is brought rather than to protect the public.

#### **110. Discrimination against a complainant or a respondent**

- (1) A psychologist shall not deny any person treatment, employment, advancement, promotion or admission to a training programme on the grounds of that person's having made or being the subject of an ethics complaint.
- (2) The prohibition contemplated in subrule (1) does not preclude a psychologist from taking action based on the outcome of an inquiry held in terms of section 42 of the Act.

#### **111. Disciplinary sanctions**

- (1) Behaviour by a psychologist that is unprofessional, immoral, unethical, negligent or deceptive or that fails to meet the minimum reasonable standards of acceptable and prevailing psychology practice shall include, but not be limited to, any act or practice that violates these rules, the Act, any regulations made in terms of the Act that are applicable to a psychologist, board notices or board resolutions.
- (2) The provisions of subrule (1) are applicable to a psychologist and to anyone under his or her supervision.
- (3) The board has the power to impose any sanction that is provided for in the Act.

**DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT  
DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING**

**No. R. 774**

**2 July 2004**

**EXTRADITION ACT, 1962 (ACT NO. 67 OF 1962)**

**EXTRADITION TREATY BETWEEN THE REPUBLIC OF SOUTH AFRICA AND THE ARAB  
REPUBLIC OF EGYPT**

I, Bridgette Sylvia Mabandla, Minister for Justice and Constitutional Development, hereby give notice in terms of section 2(3)*ter* of the Extradition Act, 1962 (Act No. 67 of 1962), that the Parliament of the Republic of South Africa has on 14 November 2002 agreed to the ratification of the Extradition Treaty between the Republic of South Africa and the Arab Republic of Egypt as set out in the Schedule.

**BRIDGETTE SYLVIA MABANDLA  
MINISTER FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

**SCHEDULE**

No. R. 774

2 Julie 2004

**WET OP UITLEWERING, 1962 (WET NO. 67 VAN 1962)****UITLEWERINGSVERDRAG TUSSEN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE  
ARABIESE REPUBLIEK VAN EGIPTE**

Ek, Bridgette Sylvia Mabandla, Minister vir Justisie en Staatkundige Ontwikkeling gee, ingevolge artikel 2(3)ter van die Wet op Uitlewering, 1962 (Wet No. 67 van 1962), hiermee kennis dat die Parlement van die Republiek van Suid-Afrika op 14 November 2002 tot die bekragtiging van die Uitleweringsverdrag tussen die Republiek van Suid-Afrika en die Arabiese Republiek van Egipte, soos in die Skedule uiteengesit, toegestem het.

**BRIDGETTE SYLVIA MABANDLA**  
**MINISTER VIR JUSTISIE EN STAATKUNDIGE ONTWIKKELING**

**SKEDULE**



**EXTRADITION TREATY**

**BETWEEN**

**THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA**

**AND**

**THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT**

## **PREAMBLE**

The Government of the Republic of South Africa and the Government of the Arab Republic of Egypt;

**Desiring** to provide for more effective cooperation between the two States in the fight against crime, and, for that purpose, to conclude a treaty for the extradition of offenders;

HAVE AGREED as follows:

### **ARTICLE 1** **Obligation to Extradite**

The Parties agree to extradite to each other, pursuant to the provisions of this Treaty and subject to their respective domestic laws relating to extradition, persons whom the authorities in the Requesting State have charged with or convicted of an extraditable offence.

### **ARTICLE 2** **Extraditable Offences**

1. An offence shall be an extraditable offence if it is punishable under the laws in both States by deprivation of liberty for a period of at least one year or by a more severe penalty.
2. An offence shall also be an extraditable offence if it consists of attempting or conspiring to commit, or aiding, abetting, inducing, counselling or procuring the commission of, or being an accessory before or after the fact to, any offence contemplated in paragraph 1.
3. For the purposes of this Article, an offence shall be an extraditable offence whether or not the laws in the Requesting and Requested States place the offence within the same category of offences or describe the offence by the same terminology.
4. If an offence has been committed outside the territory of the Requesting State, extradition shall be granted where the laws in the Requested State provide for the punishment of an offence committed outside its territory in similar circumstances. Where the laws in the Requested State do not so provide, the competent authority of the Requested State may, in its discretion, grant extradition.

5. Extradition shall also be granted in respect of a person convicted of but not yet sentenced, or convicted of and sentenced for an offence as contemplated in this Article, for the purpose of sentence, or for enforcing such sentence or the remaining portion thereof, as the case may be.

6. Where extradition of a person is sought for an offence against a law relating to taxation, customs duties, exchange control, or other revenue matters, extradition may be granted notwithstanding that the law of the Requested State does not impose the same kind of tax or duty or does not contain a tax, customs duty or exchange regulation of the same kind as the law of the Requesting State.

7. If the request for extradition relates to more than one offence and extradition is granted for an extraditable offence, it shall also be granted for any other offence specified in the request even if the latter offence is punishable by one year's deprivation of liberty or less, provided that all other requirements for extradition are met.

### **ARTICLE 3**

#### **Treatment of Nationals**

1. Neither State shall be bound to extradite its own nationals.
2. If extradition is refused solely on the basis of the nationality of the person sought, the Requested State shall, at the request of the Requesting State, submit the case to its prosecution authorities, subject to the law of the Requested State.

### **ARTICLE 4**

#### **Political and Military Offences**

1. Extradition shall not be granted if the offence for which extradition is requested is a political offence.
2. For the purposes of this Treaty, the following offences shall not be considered political offences:
  - (a) a murder or other violent crime against a Head of State or Deputy Head of State of the Requesting or Requested State, or of or against a member of such person's family;
  - (b) an offence for which both the Requesting and Requested States have the obligation pursuant to a multilateral



international agreement to extradite the person sought or to submit the case to their respective competent authorities for decision as to prosecution;

- (c) murder;
- (d) terrorism offences;
- (e) an offence involving kidnapping, abduction or any form of unlawful detention, including the taking of a hostage; and
- (f) attempting or conspiring to commit, aiding, abetting, inducing, counselling or procuring the commission of, or being an accessory before or after the fact to such offences.

3. Notwithstanding the provisions of paragraph 2, extradition shall not be granted if the competent authority of the Requested State determines that there are substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's gender, race, religion, nationality or political opinion.

4. The competent authority of the Requested State shall refuse extradition for offences under military law that are not offences under ordinary criminal law.

## **ARTICLE 5**

### **Other Grounds for Refusal**

1. Extradition may be refused if the Requested State has substantial grounds to believe that the probable sentence of the offence in the Requesting State is qualitatively different from the probable sentence given on the same offence in the courts of the Requested State.

2. Extradition may be refused unless the Requesting Party undertakes or gives such assurance as considered sufficient by the Requested Party that the person sought will not be -

- (a) detained without trial;
- (b) tortured in any way; and
- (c) treated or punished in a cruel, inhuman or degrading way.

## **ARTICLE 6**

### **Non Bis in Idem**

1. Extradition shall not be granted when the person sought has been convicted or acquitted of the offence for which extradition is requested.

2. Extradition shall not be precluded by the fact that the competent authorities of the Requested State have decided either -
- (a) not to prosecute the person sought for the acts or omissions for which extradition is requested;
  - (b) to discontinue any criminal proceedings which have been instituted against the person sought for those acts or omissions: Provided that such discontinuance does not have the effect of acquittal; or
  - (c) to investigate the person sought for the same acts or omissions.

## **ARTICLE 7**

### **Temporary and Deferred Surrender**

1. The Requested State may postpone the extradition proceedings against a person who is being prosecuted or who is serving a sentence in that State until such prosecution has been concluded or any such sentence has been served.
2. (a) If the extradition request is granted in the case of a person who is being prosecuted or is serving a sentence in the Requested State, that State may temporarily surrender the person sought to the Requesting State for the purpose of prosecution.
- (b) The person so surrendered shall be kept in custody in the Requesting State and shall be returned to the Requested State after the conclusion of the proceedings against that person, in accordance with conditions to be determined by mutual agreement between the Requesting and Requested State.

## **ARTICLE 8**

### **Lapse of Time**

Extradition shall not be granted when the prosecution has become barred by lapse of time according to the laws in the Requesting State.

## **ARTICLE 9**

### **Extradition Procedures and Required Documents**

1. All requests for extradition shall be made in writing and shall be



submitted through the diplomatic channel.

2. All requests shall be supported by -
  - (a) information describing the facts of the offence(s) and the procedural history of the case;
  - (b) a statement or text of the law, if any, creating or relating to the offence(s) for which the extradition is requested;
  - (c) a statement or text of the relevant law prescribing maximum punishment for the offence(s);
  - (d) a statement or text of the law relating to lapse of time which shall be conclusive proof of that law;
  - (e) as accurate a description as possible of the person sought together with any other information which may help to establish that person's identity or nationality and probable location;
  - (f) the documents, statements or other information specified in paragraph 3 or 4, as the case may be.
3. In addition to the information, statements or documents referred to in paragraph 2, a request for extradition of a person who is sought for prosecution shall also be supported by -
  - (a) a copy of the warrant or order of arrest, if any, issued by a judge or other competent authority;
  - (b) a copy of the indictment, charge sheet or other charging document; and
  - (c) such information as would justify committal for extradition under the laws of the Requested State, but neither State is required to establish a *prima facie* case.
4. In addition to the information, statements or documents referred to in paragraph 2, a request relating to a person who has been convicted of the offence for which extradition is sought shall also be supported by -
  - (a) a copy of the judgment of conviction, or, if a copy is not available, a statement by a judicial officer or other competent authority that the person has been convicted or a copy of any record of conviction that reflects the charge and the conviction;
  - (b) information establishing that the person sought is the person to whom the finding of guilt refers;
  - (c) a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out; and
  - (d) in the case of a person who has been convicted *in absentia*, the documents required by paragraph 3.



## **ARTICLE 10**

### **Admissibility of Documents**

Any document submitted in support of an extradition request shall be received and admitted as evidence in extradition proceedings if such document has been certified as a true copy of the original by a magistrate, judge or any other person authorized to do so and such document has been authenticated by a statement by –

- (a) if the Requested State is the Republic of South Africa, the Minister of Justice of the Arab Republic of Egypt; or
- (b) if the Requested State is the Arab Republic of Egypt, the Minister responsible for Justice of the Republic of South Africa, or

a person designated by such Minister under the seal of that Minister, identifying the person who has signed the document, including that person's position or title or in any other manner provided for in the law of the Requested State.

## **ARTICLE 11**

### **Translation**

Any document produced in relation to extradition proceedings in terms of this Treaty which is not in English shall be accompanied by a translation in English.

## **ARTICLE 12**

### **Additional Information**

1. If the competent authority of the Requested State considers that the information furnished in support of the request for extradition is not sufficient to enable the request for extradition to be granted, it shall notify the Requesting State in order to enable that State to furnish additional information.
2. The competent authority may fix a reasonable time limit for such information to be furnished.
3. Nothing shall prevent the competent authority of the Requested State from presenting to a court of that State information sought or obtained after submission of the request to the Court or after expiration of the time stipulated pursuant to paragraph 2.

### ARTICLE 13

#### Provisional Arrest

1. In case of urgency, the Requesting State may, for the purpose of extradition, request the provisional arrest of the person sought pending presentation of the documents in support of the extradition request. A request for provisional arrest may be transmitted through the diplomatic channel or directly between the respective Ministries responsible for Justice. The facilities of the International Criminal Police Organization (INTERPOL) may also be used to transmit such a request. The application may also be transmitted by post, telegraph, telefax or any other means affording a record in writing.
2. The application for provisional arrest shall contain -
  - (a) a description of the person sought;
  - (b) the location of the person sought, if known;
  - (c) a description of the offence(s);
  - (d) a concise statement of the acts or omissions alleged to constitute the offence(s);
  - (e) a description of the punishment that can be imposed or has been imposed for the offence(s);
  - (f) a statement that a document referred to in Article 9(3)(a) or Article 9(4)(a), as the case may be, exists; and
  - (g) a statement that the documents supporting the extradition request for the person sought will follow within the time specified in this Treaty.
3. Prompt attention shall be given to such application and the Requesting State shall be notified as soon as possible of the decision regarding its application for provisional arrest and, if applicable, the reasons for any inability to proceed with the application.
4. A person who is provisionally arrested may be discharged from custody upon the expiration of forty (40) days from the date of provisional arrest pursuant to this Treaty if the competent authority of the Requested State has not received the documents required in Article 9. For this purpose, receipt of said documents by the Embassy of the Requested State in the Requesting State shall constitute receipt by the competent authority of the Requested State.
5. The release from custody of a person pursuant to paragraph 4 shall not prejudice the subsequent re-arrest and extradition of that person if the documents required in Article 9 are delivered at a later date.



## **ARTICLE 14**

### **Decision and Surrender**

1. The Requested State shall promptly notify the Requesting State through the diplomatic channel of its decision on the request for extradition.
2. Reasons shall be given by the Requested State for any complete or partial refusal of a request for extradition. The Requested State shall provide copies of pertinent judicial decisions upon request.
3. If the request for extradition is granted, the relevant authorities of the Requesting and Requested States shall agree on the date and place for the surrender of the person sought.
4. If the person sought is not removed from the territory of the Requested State within 15 days of the appointed date, that person may be discharged from custody. In all cases the person to be extradited shall be released after 30 days of the appointed date and the Requested State, in its discretion, may subsequently refuse extradition for the same offence.
5. If circumstances beyond its control prevent either the Requesting State or the Requested State from respectively surrendering or receiving the person sought, the State so prevented shall notify the other accordingly and seek to agree on a new date and if required, a new place for such surrender.

## **ARTICLE 15**

### **Concurrent Requests**

1. Where requests are received from two or more States for the extradition of the same person, either for the same offence or for different offences, the competent authority of the Requested State shall determine to which of those States, if any, the person is to be extradited and shall notify the Requesting State of its decision.
2. In determining to which State the person is to be extradited, the Requested State shall consider all relevant factors, including but not limited to -
  - (a) whether the requests were made pursuant to an extradition treaty;
  - (b) the relative seriousness of the offences, should those requests



- relate to different offences;
- (c) the time and place of commission of each offence;
- (d) the respective dates on which the requests were received from the respective States;
- (e) the interests of the respective States;
- (f) the nationality of both the victim and the offender; and
- (g) the possibility of any subsequent extradition between the respective States.

## **ARTICLE 16**

### **Seizure and Surrender of Property**

1. To the extent permitted under its law, the Requested State may seize and surrender to the Requesting State all property, including articles and documents, that may be found in the Requested State and that has been acquired as a result of the offence or is connected thereto or may be required as evidence, if extradition is granted.

2. The property referred to in paragraph 1 may be surrendered to the Requesting State, if the latter so requests, even if the extradition cannot be carried out due to the death, disappearance or escape of the person sought.

3. Where the said property is liable to seizure or confiscation within the jurisdiction of the Requested State, the latter may, upon satisfactory assurance from the Requesting State that the property will be returned within a fixed period of time or as soon as practicable, temporarily surrender that property to the Requesting State. The Requested State may also defer the surrender of such property if it is required in connection with pending criminal proceedings in the jurisdiction of the Requested State.

4. Any rights which the Requested State or third parties may have to such property shall be duly respected in accordance with the law in the Requested State.

## **ARTICLE 17**

### **Rule of Specialty**

1. A person extradited under this Treaty shall not be detained, tried or punished in the Requesting State for any offence committed before his or her extradition other than an offence -

- (a) for which extradition was granted or any other extraditable offence of which the person could be convicted upon proof of the facts upon which the request for extradition was granted, or is a lesser included offence;
  - (b) for which the competent authority of the Requested State consents to the person's detention, trial, or punishment. For the purpose of this paragraph-
    - (i) the Requested State may require the submission of the documentation referred to in Article 9; and
    - (ii) the person extradited may be detained by the Requesting State for sixty (60) days, or for such longer period of time as the Requested State may authorize, pending the processing of the request.
2. Paragraph 1 of this Article shall not apply if-
- (a) the person extradited leaves the territory of the Requesting State after extradition and voluntarily returns to it; or
  - (b) the person extradited has had an opportunity to leave the territory of the Requesting State and has not done so within thirty (30) days of final discharge in respect of the offence for which that person was extradited.

## **ARTICLE 18**

### **Legal Characterisation**

If the legal characterization of the action subject to the crime has been modified during the proceedings taken against the surrendered person, he may not be charged or prosecuted unless the elements constituting the crime, according to their modified characterization allow extradition.

## **ARTICLE 19**

### **Surrender to a Third State**

1. Where a person has been surrendered to the Requesting State by the Requested State, the Requesting State shall not surrender that person to any third State for an offence committed before that person's surrender unless –
- (a) the Requested State consents to that surrender; or
  - (b) the person has had an opportunity to leave the territory of the Requesting State and has not done so within 30 days of final discharge in respect of the offence for which that person was surrendered by the Requested State or has returned to the



territory of the Requesting State after leaving it.

2. Before acceding to a request pursuant to paragraph 1, the Requested State may request relevant information.

## **ARTICLE 20**

### **Waiver**

If the person sought, formally consents, by way of affidavit or otherwise, to be surrendered to the Requesting State, the Requested State may surrender the person as expeditiously as possible without further proceedings.

## **ARTICLE 21**

### **Transit**

1. Either State may authorize transportation through its territory of a person surrendered to the other State by a third State.
2. A request for transit shall be transmitted through the diplomatic channel or directly between the respective Ministries responsible of Justice. In cases of urgency, the facilities of the International Criminal Police Organization (INTERPOL) may also be used to transmit such a request.
3. The State requested to grant transit may refuse to comply when the person concerned is its national.
4. The request for transit shall contain -
  - (a) a description of the person together with any information that may help to establish his or her identity and nationality; and
  - (b) a brief statement of the facts of the case, and a list of the offences for which the person was surrendered by the third State.
5. Permission for the transit of a person shall, subject to the law of the Requested State, include permission for the person to be held in custody during transit. If transportation is not continued within a reasonable time, the competent authority of the State in whose territory the person is being held may direct that the person be released.



6. Authorization is not required when air transportation is used by one State and no landing is scheduled on the territory of the other State. If an unscheduled landing does occur, the State in whose territory such landing occurs may require a request for transit pursuant to paragraph 2, and it may detain the person until the request for transit is received and the transit is effected, provided that such request is received within 96 hours of the unscheduled landing.

7. If the State asked to permit the transit is also requesting the extradition of the said person, the transit may be postponed with the consent of the Requesting State until the judiciary of such State finalizes the prosecution of that person.

## **ARTICLE 22**

### **Representation and Expenses**

1. The Requested State shall make all necessary arrangements for and meet the cost of any proceedings arising out of a request for extradition and shall advise, assist, and otherwise represent the interests of the Requesting State.

2. The Requested State shall bear the expenses incurred in its territory or jurisdiction in the arrest and detention of the person whose extradition is sought until that person is surrendered to a person nominated by the Requesting State.

3. The Requesting State shall pay all the expenses incurred in the translation of extradition documents and in conveying the person from the territory of the Requested State.

4. Neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination or surrender of persons under this Treaty.

## **ARTICLE 23**

### **Consultation**

The Ministries responsible for Justice or persons designated by such Ministries may consult with each other directly or through the facilities of the International Criminal Police Organization (INTERPOL) in connection with the processing of individual cases and in furtherance of efficient implementation of this Treaty.

## **ARTICLE 24**

### **Application**

This Treaty shall apply to extraditable offences committed before, on or after the date upon which this Treaty enters into force.

## **ARTICLE 25**

### **Ratification, Entry into Force, and Termination**

1. This Treaty shall be subject to ratification and the instrument of ratification shall be exchanged as soon as possible.
2. This Treaty shall enter into force upon the exchange of the instruments of ratification.
3. Either State may terminate this Treaty at any time by giving written notice to the other State, through the diplomatic channel and the termination shall be effective six months after the date of such notice.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Treaty in the English and Arabic languages, both being equally authentic.

DONE at Cairo in duplicate, this 22<sup>nd</sup> day of October, 2001.

Dr N C Dlamini Zuma  
Minister of Foreign Affairs  
**FOR THE GOVERNMENT OF  
THE REPUBLIC OF SOUTH  
AFRICA**

Mr A M el Sayed  
Minister of Foreign Affairs  
**FOR THE GOVERNMENT OF  
THE ARAB REPUBLIC OF  
EGYPT**

No. R. 775

2 July 2004

**INTERNATIONAL CO-OPERATION IN CRIMINAL MATTERS ACT, 1996  
(ACT NO. 75 OF 1996)**

**MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS TREATY BETWEEN THE  
REPUBLIC OF SOUTH AFRICA AND THE ARAB REPUBLIC OF EGYPT**

I, Bridgette Sylvia Mabandla, Minister for Justice and Constitutional Development, hereby give notice in terms of section 27(2) of the International Co-operation in Criminal Matters Act, 1996 (Act No. 75 of 1996), that the Parliament of the Republic of South Africa has on 14 November 2002 agreed to the ratification of the Mutual Legal Assistance in Criminal Matters Treaty between the Republic of South Africa and the Arab Republic of Egypt as set out in the Schedule.

**BRIDGETTE SYLVIA MABANDLA  
MINISTER FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

**SCHEDULE**



**No. R. 775****2 Julie 2004****WET OP INTERNASIONALE SAMEWERKING IN STRAFREGTELIKE  
AANGELEENDHEDE, 1996 (WET NO. 75 VAN 1996)****VERDRAG RAKENDE WEDERKERIGE REGSBYSTAND IN STRAFREGTELIKE  
AANGELEENDHEDE TUSSEN DIE REPUBLIEK VAN SUID- AFRIKA EN DIE ARABIESE  
REPUBLIEK VAN EGIPTES**

Ek, Bridgette Sylvia Mabandla, Minister vir Justisie en Staatkundige Ontwikkeling gee, ingevolge artikel 27(2) van die Wet op Internasionale Samewerking in Strafregtelike Aangeleenthede, 1996 (Wet No. 75 van 1996), hiermee kennis dat die Parlement van die Republiek van Suid-Afrika op 14 November 2002 tot die bekragtiging van die Verdrag rakende Wederkerige Regsbystand in Strafregtelike Aangeleenthede tussen die Republiek van Suid-Afrika en die Arabiese Republiek van Egipte, soos in die Skedule uiteengesit, toegestem het.

**BRIDGETTE SYLVIA MABANDLA  
MINISTER VIR JUSTISIE EN STAATKUNDIGE ONTWIKKELING**

**SKEDULE**

**AGREEMENT BETWEEN THE GOVERNMENT OF**

**THE REPUBLIC OF SOUTH AFRICA**

**AND**

**THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT**

**ON**

**MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS**

## **PREAMBLE**

The Government of the Republic of South Africa and the Government of the Arab Republic of Egypt;

DESIRING to extend to each other the widest measure of co-operation in criminal matters;

HAVE AGREED as follows:

## **ARTICLE 1**

### **Definitions**

For the purposes of this agreement, "central authority" means -

- (a) for the Republic of South Africa, the Director-General: Justice and Constitutional Development;
- (b) for the Arab Republic of Egypt, the General Department of International and Cultural Cooperation, Ministry of Justice;

"competent authority" means any person or authority responsible for matters related to the investigation or prosecution of offences;

"offence" means:

- (a) in relation to the Republic of South Africa, any offence against the law of the said Republic; and
- (b) in relation to the Arab Republic of Egypt any offence against the law of the said Republic;

"request" means a request made under this agreement;

"Requested State" means the State to which a request is made; and

"Requesting State" means the State that has made a request.

## **ARTICLE 2**

### **Scope of Application**

1. The Parties shall provide, in accordance with the provisions of this agreement, mutual assistance in all matters relating to the investigation,



prosecution and prevention of offences, and in legal proceedings in criminal matters.

2. Mutual assistance shall include -
  - (a) exchanging information and objects;
  - (b) locating or identifying persons, objects and sites;
  - (c) taking of evidence, obtaining the testimony or statements of persons;
  - (d) executing requests for searches and seizures;
  - (e) providing documents, records and articles of evidence;
  - (f) serving of documents;
  - (g) transferring persons for testimony or to assist in investigations;
  - (h) executing pecuniary sentences and compensatory orders; and
  - (i) measures to locate, restrain and forfeit the proceeds of crime.

3. This agreement is solely for mutual legal assistance between the Parties and the provisions of this agreement shall not give rise to a right on the part of a private party to obtain or exclude any evidence, or to impede the execution of a request.

4. This agreement shall apply to requests made pursuant to it whether or not the offences concerned occurred prior to this agreement entering into force.

### **ARTICLE 3**

#### **Other Assistance**

The Parties, including their competent authorities, may provide and continue to provide assistance pursuant to other agreements, arrangements or practices, and this agreement shall not derogate from obligations subsisting between the Parties pursuant to such agreements, arrangements or practices.

### **ARTICLE 4**

#### **Requests**

1. Requests and responses thereto may be transmitted directly between the central authorities.

2. Requests shall be made in writing. In urgent circumstances and where allowed by the domestic law of the Requested State, or where otherwise permitted by the Requested State in its sole discretion, requests may be made orally but shall be confirmed in writing within ten (10) days thereafter.

## **ARTICLE 5**

### **Contents of Requests for Evidence**

1. In all cases requests for assistance shall include –
  - (a) a statement certifying the nature of the proceedings instituted or the nature and purpose of the investigations in the Requesting State;
  - (b) the name of the competent authority conducting the investigation or proceedings to which the request relates;
  - (c) a summary of the relevant facts and laws including particulars of the offence in respect of which the request is made;
  - (d) a statement of the purpose for which the request is made and the nature of the assistance sought;
  - (e) the need, if any, for confidentiality and the reasons therefor; and
  - (f) any time limit within which compliance with the request is desired.
2. Requests for assistance shall also contain the following information:
  - (a) Where possible, the identity, nationality and location of the person or persons who are the subject of the request;
  - (b) where necessary, details of any particular procedure or requirement that the Requesting State wishes to be followed and the reasons therefor;
  - (c) in the case of requests for documents, records or articles to be produced, a description thereof or of the desired contents thereof;
  - (d) in the case of requests for the taking of evidence or search and seizure, a statement indicating the basis for belief that evidence may be found in the jurisdiction of the Requested State;
  - (e) in the case of requests to take evidence from a person, a statement as to whether sworn or affirmed statements are



- required and a description of the subject matter of the evidence or statement sought;
- (f) in the case of lending of exhibits, the person or class of persons who will have custody of the exhibit, the place to which the exhibit is to be removed, any tests to be conducted and the date by which the exhibit will be returned;
  - (g) in the case of making detained persons available, the person or class of persons who will have custody during the transfer, the place to which the detained person is to be transferred and the date of that person's return;
  - (h) in the case of requests for restraint or forfeiture of proceeds of crime, where possible:
    - (i) a detailed description of the proceeds including their location;
    - (ii) a statement describing the basis for belief that the moneys or property are the proceeds of crime;
    - (iii) a statement describing the evidence that would be available for proceedings in the Requested State; and
  - (i) in the case of requests for assistance in recovering a fine or compensation, a certified copy of the document evidencing a sentence or order and a statement that the sentence or order is final and that the sentence or order cannot be satisfied in full in the Requesting State.

3. The Requested State shall not refuse to execute the request solely because it does not include all of the information described in paragraphs 1 and 2 if it can otherwise be executed according to the law of the Requested State.

4. If the Requested State considers that the information contained in the request is not sufficient to enable the request to be dealt with, that Party may request that additional details be furnished.

## ARTICLE 6

### Refusal or Postponement of Assistance

1. Assistance may be refused when, in the opinion of the Requested State, the execution of the request would impair its sovereignty, national security, public order or other essential public interests or for any reason provided by its law including its system of fundamental or human rights.



2. Assistance may be refused if -
  - (a) the request relates to an offence where the acts or omissions alleged to constitute that offence would not, if they had taken place within the jurisdiction of the Requested State, constitute an offence;
  - (b) the Requesting State cannot grant similar assistance to the Requested State;
  - (c) provision of the assistance sought could prejudice an investigation or proceedings in the Requested State, prejudice the safety of any person or impose an excessive burden on the resources of that State;
  - (d) the request is not made in conformity with this agreement;
  - (e) there are substantial grounds for believing that the request for assistance has been made for the purpose of prosecuting a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions or that that person's position may be prejudiced for any of those reasons; or
  - (f) the act is an offence under military law, which is not also an offence under ordinary criminal law.
3. The Requested State may postpone assistance if execution of the request would interfere with any ongoing proceedings or investigations in that State.
4. Before assistance is denied or postponed, the Requested State shall, through its central authority -
  - (a) forthwith inform the Requesting State of the reason why it is considering the denial or postponement of the request; and
  - (b) consult with the Requesting State to determine whether assistance may be given subject to such terms and conditions as the Requested State deems necessary.
5. The Requesting State that accepts assistance subject to the terms and conditions contemplated in paragraph 4(b), shall comply with such terms and conditions.
6. If the central authority of the Requested State denies or postpones assistance it shall inform the central authority of the Requesting State of the reasons for denial or postponement, as the case may be.

## **ARTICLE 7**

### **Execution of Requests**

1. A request shall forthwith be executed in accordance with the law of the Requested State and, where allowed by the law of the Requested State, in accordance with the directions stated in the request.
2. Where a request can be complied with but not in accordance with the directions stated therein, the Requested State shall so inform the Requesting State which shall then determine and indicate whether the request should nevertheless be executed.
3. Where required by the Requested State, the Requesting State shall, after completion of the proceedings, return to the Requested State any material provided by the Requested State in fulfillment of the request.

## **ARTICLE 8**

### **Confidentiality and Restricting Use of Evidence and Information**

1. The Requested State shall keep confidential a request, its contents, supporting documents and any action taken pursuant to the request, except –
  - (a) to the extent necessary to execute the request;
  - (b) where the disclosure is specifically authorized by the Requesting State in accordance with that State's terms and conditions; or
  - (c) where the Requested State is obliged to disclose in terms of its laws.
2. Where the request cannot be executed without breaching requirements of confidentiality stated in the request, the Requested State shall so inform the Requesting State which shall then determine and indicate whether the request should nevertheless be executed.
3. The Requested State may, after consultation with the Requesting State, require that information or evidence furnished be kept confidential or be disclosed or used only subject to the terms and conditions it may specify.
4. The Requesting State shall not use information or evidence for any use or purpose other than stated in the request whereby the information or



evidence was sought, without the prior consent of the Requested State.

## **ARTICLE 9**

### **Taking of Evidence in the Requested State**

1. Where, pursuant to a request for assistance, a person is to give evidence in the Requested State for the purpose of proceedings in the Requesting State -
  - (a) the parties to those proceedings, their legal representatives or representatives of the Requesting State may, subject to the laws of the Requested State, appear and question the person giving evidence, whether or not interrogatories upon which the evidence of that person is to be taken are submitted; and
  - (b) the Requesting State may specify any particular questions to be put to that person.
2. A person who is required to give evidence in the Requested State pursuant to a request may decline to give evidence where -
  - (a) the law of that State would permit or require that person to decline to give evidence; or
  - (b) the law of the Requesting State would permit or require that person to decline to give evidence.
3. If a person claims that there is a right or obligation to decline to give evidence under the law of the Requesting State, the State where that person is present shall, with respect thereto, rely on a certificate of the competent authority of the Requesting State as evidence of the existence or non-existence of that right or obligation.
4. Where the certificate contemplated in paragraph 3 indicates that the person could in criminal proceedings in the Requesting State be compelled to give the evidence in question, that evidence shall be taken.

## **ARTICLE 10**

### **Availability of Consenting Prisoners to Give Evidence or Assist Investigations**

1. A person, in custody, in the Requested State, whose presence is requested in the Requesting State for the purposes of this agreement shall, to the extent permissible under the laws of the Parties, be



transferred for that purpose, provided the person in custody consents and the Requested State has no reasonable basis to deny the request.

2. The Requesting State shall have the authority and duty to keep the person in custody at all times and return the person to the custody of the Requested State at the conclusion of the proceedings in relation to which the transfer to the Requesting State was sought or at such earlier time as the person's presence is no longer required.

3. The person transferred shall receive credit for service of the sentence imposed in the Requested State for time served in custody of the Requesting State.

4. (a) Where the sentence imposed on a person transferred under this Article expires while the person is in the Requesting State, that person shall be released and thereafter treated as a person referred to in Article 11.

(b) The Requested State shall at the time of transfer of a person indicate to the Requesting State when the sentence imposed on that person expires.

5. The transfer of the person in custody may be refused if the presence of that person is necessary in criminal proceedings pending in the territory of the Requested State.

## **ARTICLE 11**

### **Availability of Other Consenting Persons to Give Evidence or Assist Investigations in the Requesting State**

1. A request may be made for assistance in facilitating the availability of a person to assist in an investigation, or to appear as a witness in proceedings in relation to an offence committed in the Requesting State, except where that person is the subject of the investigation or the person charged with the offence.

2. The Requested State shall, if satisfied that appropriate arrangements for that person's safety will be made by the Requesting State, request the person to consent to assisting in the investigation or to appearing as a witness in proceedings and shall take all steps necessary to facilitate the request.

## **ARTICLE 12**

### **Safe conduct**

1. Subject to paragraph 2 of this Article, where a person is in the Requesting State pursuant to a request made under Articles 10 or 11 –
  - (a) that person shall not be detained, prosecuted, punished or subjected to any other restrictions of personal liberty in the Requesting State in respect of any acts or omissions or convictions that preceded the person's departure from the Requested State;
  - (b) that person shall not, without that person's consent, be required to give evidence in any proceeding or to assist in any investigation other than the proceedings or investigations to which the request relates.
2. Paragraph 1 of this Article shall cease to apply if that person, being free to leave, has not left the Requesting State within a period of twenty (20) consecutive days, after that person has been officially told or notified that his or her presence is no longer required or, having left, has voluntarily returned.
3. A person appearing before an authority in a Requesting State pursuant to a request under Articles 10 or 11 shall not be subject to prosecution based on such testimony except that, that person shall be subject to the law of that State in relation to contempt of court and perjury.
4. A person who does not give the consent as envisaged in Articles 9 or 10 shall not by reason thereof, be liable to any penalty or be submitted to any coercive measure notwithstanding any contrary statement in the request.

## **ARTICLE 13**

### **Search and Seizure**

1. The competent authority that has executed a request for search and seizure shall provide such information as may be required by the Requesting State concerning, but not limited to, the identity, condition, integrity and continuity of possession of the documents, records or things seized and the circumstances of the seizure.
2. The Requesting State shall observe any conditions imposed by the Requested State in relation to any seized documents, records or things which may be delivered to the Requesting State.



## **ARTICLE 14**

### **Proceeds of Crime**

1. Upon request, the Requested State shall endeavour to locate any property or assets of a person against whom a forfeiture or confiscation order, pecuniary penalty order, substituted property order, fine in lieu of such order, or any other order having a similar effect, has been made or may be made by a court in the Requesting State in relation to criminal conduct.
2. Where pursuant to paragraph 1, property or assets are located, the Requested State may assist with or initiate such proceedings as are permitted by its law to prevent any dealing in, transfer or disposal thereof, pending a final determination in respect of that property or those assets in any proceedings before a court of the Requesting or Requested State.
3. The Requested State shall give effect to the extent possible under its law to an order mentioned in paragraph 1 made by a court of the Requesting State or initiate appropriate proceedings in relation to the property or assets found in the Requested State.
4. In the application of this Article the rights of *bona fide* third parties shall be respected.

## **ARTICLE 15**

### **Service of Documents**

1. The Requested State shall commit its best efforts to effect service of any document transmitted to it for the purpose of service.
2. A request to effect service of summonses shall be made to the Requested State not less than ninety (90) days before the date on which the appearance of a person is required. In urgent cases, the Requested State may waive the time requirement.
3. The Requested State shall return a proof of service in the manner required by the Requesting State.

## **ARTICLE 16**

### **Publicly Available and Official Documents**

1. The Requested State shall provide copies of documents and



records that are available to the public.

2. The Requested State may provide copies of any document, record or information in the possession of a government department or agency, but not publicly available, to the same extent and under the same conditions as would be available to its own law enforcement and judicial authorities.

### **ARTICLE 17**

#### **Authentication**

Any document submitted in support of a request shall be received by the Requested State if such document has been certified as a true copy of the original by a magistrate, judge or any other person authorized to do so and such document has been authenticated by a statement by –

- (a) if the Requested State is the Republic of South Africa, the Minister of Justice of the Arab Republic of Egypt; or
- (b) if the Requested State is the Arab Republic of Egypt, the Minister responsible for Justice of the Republic of South Africa, or

a person designated by such Minister under the seal of that Minister, identifying the person who has signed the document, including that person's position or title or authenticated in any other manner provided for in the law of the Requested State.

### **ARTICLE 18**

#### **Representation**

Subject to Article 19, the Requested State shall in accordance with its laws make all necessary arrangements for the representation of the interests of the Requesting State in any proceedings arising out of a request for assistance.

### **ARTICLE 19**

#### **Costs**

1. The Requested State shall assume all ordinary expenses of fulfilling the request for assistance, except that the Requesting State shall bear –

- (a) the expenses associated with conveying any person to or from the territory of the Requested State, and any fees, allowances or expenses payable to that person while in the Requesting State

- pursuant to a request under Articles 10 or 11;
- (b) the expenses associated with conveying custodial or escorting officers; and
- (c) fees of experts.

2. If during the execution of the request it becomes apparent that expenses of an extraordinary nature are required to fulfill the request or that the request involves any of the assistance set out in Article 14 of this agreement, the Parties shall consult to determine the terms and conditions under which the execution of the request may continue.

## **ARTICLE 20**

### **Consultation**

1. The Parties shall consult promptly, at the request of either, concerning the interpretation and the application of this agreement.
2. The Parties may also develop such practical measures as may be necessary to facilitate the implementation of this agreement.

## **ARTICLE 21**

### **Translation**

Any document produced in relation to proceedings in terms of this agreement which is not in English shall be accompanied by a translation in English.

## **ARTICLE 22**

### **Ratification, Entry into force and Termination**

1. This agreement shall be subject to ratification and the instruments of ratification shall be exchanged as soon as possible.
2. This agreement shall enter into force upon the exchange of the instruments of ratification.
3. Either State may terminate this agreement at any time by giving written notice to the other State, through the diplomatic channels. The termination shall be effective six months after the date of such notice.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed and sealed this agreement.

DONE in duplicate, in the English and Arabic languages, each language version being equally authentic, at Cairo this 22nd day of October 2001.

Dr N C Dlamini Zuma  
Minister of Foreign Affairs  
**FOR THE GOVERNMENT OF  
THE REPUBLIC OF SOUTH  
AFRICA**

Mr A M el Sayed  
Minister of Foreign Affairs  
**FOR THE GOVERNMENT OF  
THE ARAB REPUBLIC OF  
EGYPT**



**DEPARTMENT OF MINERALS AND ENERGY  
DEPARTEMENT VAN MINERALE EN ENERGIE**

No. R. 782

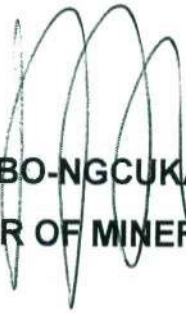
2 July 2004

**MINES AND WORKS ACT, 1956**

**(ACT No 27 OF 1956)**

**DECLARATION OF WORK IN THE NATIONAL INTEREST**

Under Section 9(1) (f) of the Mines and Works Act, 1956 (Act No 27 of 1956), I Phumizile Mlambo-Ngcuka, Minister of Minerals and Energy, hereby declare that in my opinion the performance of all work necessary and incidental to the normal production of diamonds extracted from tailings dams on Sundays, at the mine known as De Beers-Cullinan Diamond Mine in the District of Cullinan, Province of Gauteng, is necessary in the national interest for a period of one year from 18 January 2004.



**P MLAMBO-NGCUKA  
MINISTER OF MINERALS AND ENERGY**

No. R. 784

2 July 2004

**MINE HEALTH AND SAFETY ACT, 1996 (ACT NO. 29 OF 1996)****APPOINTMENT OF MEMBERS OF TRIPARTITE INSTITUTIONS**

In terms of regulation 18.6(1)(b) of the Mine Health and Safety Act, 1996 (Act No. 29 of 1996), I Phumzile Mlambo-Ngcuka, Minister of Minerals and Energy, hereby appoint the persons in the Schedule as members of the Mine Health and Safety Council and its permanent committees for a period of three years with effect from 1 November 2003.

**MS P MLAMBO-NGCUKA****MINISTER: MINERALS AND ENERGY**

## **SCHEDULE**

### **MEMBERS OF TRIPARTITE INSTITUTIONS**

#### **MINE HEALTH AND SAFETY COUNCIL**

##### **Members representing owners in the mining industry**

1. Dr J Stewart ( replacing Dr M J Gouws)
2. Mr N Pienaar ( replacing Mr C F Rademan)

##### **Members representing employees in the mining industry**

1. Mr S F Stehring ( replacing Mr P Bailey)

#### **MINING REGULATION ADVISORY COMMITTEE**

##### **Members representing employees in the mining industry**

1. Mr L Khiba ( replacing Mr E Netononda)

#### **SAFETY IN MINES RESEARCH ADVISORY COMMITTEE**

##### **Members representing employees in the mining industry**

1. Mr W Greyling ( replacing Mr M Madonsela)



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