
S.I OF 2017

MEDICAL PRACTITIONERS AND DENTISTS ACT

(Cap 126)

Medical Practitioners and Dentists (Disciplinary Inquiries) (Amendment) Regulations, 2017

In exercise of the powers conferred by section 14 of the Medical Practitioners and Dentists Act, the Minister of Health and Social Affairs hereby makes the following Regulations—

1. These regulations may be cited as the Medical Practitioners and Dentists (Disciplinary Inquiries) (Amendment) Regulations, 2017. Citation

2. The Medical Practitioners and Dentists (Disciplinary Inquiries) Regulations, 1995 are hereby amended as follows — Amendment
of S.I 89 of
1995

(a) in regulation 2, by deleting the definition of “code of practice” and substituting therefor the following —

“ “professional misconduct” means a professional misconduct described in the Schedule;”;

(b) in regulation 3, by deleting paragraphs (a), (b) and (c) and by inserting after the words “if the medical practitioner or dentist”, the words “commits a professional misconduct.”;

(c) by inserting after regulation 8 the following —

“SCHEDULE

(Professional Misconduct)

A medical practitioner or a dentist who—

1. obtains the registration as a medical practitioner or dentist fraudulently;

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2. practices the profession of medicine or dentistry fraudulently or beyond its authorised scope;
 3. practices the profession of medicine or dentistry with negligence;
 4. practices the profession of medicine or dentistry with incompetence on more than one occasion;
 5. practices the profession of medicine or dentistry with gross incompetence on a particular occasion;
 6. practices the profession of medicine or dentistry while impaired by alcohol, drugs, physical disability, or mental disability;
 7. habitually uses narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, except a registered medical practitioner or dentist who —
 - (i) is maintained on an approved therapeutic regimen which does not impair his or her ability to practice, or
 - (ii) has a psychiatric condition which does not impair his or her ability to practice;
 8. refuses to provide professional services to a person because of his or her race, creed, color or national origin;
 9. permits, assists or abets an unregistered medical practitioner or dentist or a person who is not a medical practitioner or dentist to perform activities requiring registration as a medical practitioner or dentist;
 10. practices the profession of medicine or dentistry while his or her registration as a medical practitioner or dentist is suspended or expired;
 11. fails to comply with a lawful order issued by the Council;
 12. willfully or with gross negligence fails to comply with provisions of laws, rules, or regulations governing the practice of medicine or dentistry;

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13. exercises predominant influence on a patient, including the promotion of the sale of services, goods, appliances, or drugs in such manner as to exploit the patient for the financial gain of the registered medical practitioner or dentist or of a third party;
 14. directly or indirectly offers, gives, solicits, or receives or agrees to receive, a fee or other consideration to or from a third party for the referral of a patient or in connection with the performance of professional services;
 15. permits a person to share in the fees for professional services, other than a partner, employee, associate in a professional firm or corporation, professional subcontractor or consultant authorised to practice medicine or dentistry, or a legally authorised trainee practicing under the supervision of a registered medical practitioner or dentist;
 16. evidences in his conduct moral unfitness to practice medicine or dentistry;
 17. willfully makes or files a false report, or fails to file a report required by law or by the Public Health Authority or the Council, or willfully impedes or obstructs such filing, or induces another person to do so;
 18. fails to make available to a patient, upon request, copies of documents in possession or under the control of the registered medical practitioner or dentist which have been prepared for and paid for by the patient;
 19. does without consent, anything to a patient for a therapeutic, preventative, palliative, diagnostic, cosmetic or other health related purpose in a situation where consent is by law required;
 20. reveals personally identifiable facts, data, or information obtained in a professional capacity without the prior consent of the patient, except where he or she is authorised or required to do so by law;
 21. practices or offers to practice beyond the scope permitted by law or beyond his or her training or qualification, or accepts and performs professional responsibilities which he or she knows or ought to know that he or she is not competent to perform, or performs, without adequate supervision, professional services which he or she is

authorised to perform only under the supervision of an appropriately qualified medical practitioner or dentist, except in an emergency situation where a person's life or health is in danger;

22. delegates professional responsibilities to a person when the registered medical practitioner or dentist delegating such responsibilities knows or ought know that such person is not qualified, by training, by experience, or by licensure, to perform them;
23. with respect to any non-emergency treatment, procedure or surgery which is expected to involve local or general anesthesia, fails to disclose to the patient the identities of all medical practitioners and dentists and trainees reasonably anticipated to be actively involved in such treatment, procedure or surgery and to obtain such patient's informed consent to the said practitioners' participation;
24. performs professional services which have not been duly authorised by the patient or his or her legal representative;
25. fails to advise the patient to obtain services from another health professional where he or she knows or ought to know that a patient had a condition which was outside his or her scope of practice or within his or her scope of practice but outside his or her competency to treat;
26. advertises or solicits for patronage against public interest;

(Note: A. Advertising or soliciting not in the public interest shall include, but shall not be limited to, advertising or soliciting that —

- (a) is false, fraudulent, deceptive, misleading, sensational, or flamboyant;*
- (b) represents intimidation or undue pressure;*
- (c) uses testimonials;*
- (d) guarantees a service;*

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- (e) *makes a claim relating to professional services or products or the costs or price therefor which cannot be substantiated by the registered medical practitioner or dentist, who shall have the burden of proof;*
 - (f) *makes claims of professional superiority which cannot be substantiated by the registered medical practitioner or dentist, who shall have the burden of proof; or*
 - (g) *offers bonuses or inducements in any form other than a discount or reduction in an established fee or price for a professional service or product.*

B. The following shall be deemed appropriate means of informing the public of the availability of professional services —

- (a) *informational advertising not contrary to the foregoing prohibitions; and*
- (b) *the advertising on the internet or in a newspaper, periodical or professional directory or on radio or television of fixed prices, or a range of prices, for specified routine professional services, provided that if there is an additional charge for related services which are an integral part of the overall service being provided by the registered medical practitioner or dentist, the advertisement shall so state and provided further that the advertisement indicates the period of time for which the advertised prices shall be in effect;*

C. A registered medical practitioner or dentist placing advertisements shall maintain, or cause to be maintained, an exact copy of each advertisement, transcript, tape or video tape thereof as appropriate for the medium used, for a period of one year after its last appearance. This copy shall be made available for inspection upon demand of the Public Health Authority or the Council;

D. A registered medical practitioner or dentist shall not compensate or give anything of value to representatives of the press, radio, television or other communications media in anticipation of or in return for professional publicity in a news item;

E. A demonstration, dramatization or other portrayal of professional practice shall not be permitted in advertising on radio or television)

27. fails to respond within the prescribed number of days to written communication from the Public Health Authority or the Council and fails to make available relevant records with respect to an inquiry or complaint about the registered medical practitioner's or dentist's professional conduct.

(Note: The period of prescribed number of days shall commence on the date when such communication was delivered personally to the registered medical practitioner or dentist. If the communication is sent from the Public Health Authority or the Council by registered or certified mail to the address appearing on the last registration of the medical practitioner or dentist with a request for a return slip to the sender's address, the required period shall commence on the date of delivery to registered medical practitioner or dentist as indicated by the return receipt.)

28. violates a term of probation or condition or limitation imposed on the registered medical practitioner or dentist pursuant to any law;
29. examines patients, without a chaperone, except in an emergency;
30. examines or performs an intervention on a patient without the patient's prior informed consent or the prior informed consent of any other person legally authorised to provide consent, except in cases determined as an emergency by the Council, after the event.
31. abandons or neglects a patient under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care, or abandons a professional employment by a group practice, hospital, clinic or other health care facility without reasonable notice and under circumstances which seriously impair the delivery of professional care to patients or clients;

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32. willfully harasses, abuses, or intimidates a patient either physically or verbally;
 33. fails to document fully and accurately the evaluation and treatment of a patient or fails to maintain for a patient a signed and fully identifiable record which accurately reflects the evaluation and treatment provided;
 34. falsifies a record relating to the care of a patient or any other record;
 35. fails to exercise appropriate supervision over persons who are authorised to practice only under the supervision of the registered medical practitioner or dentist;
 36. fails to report an incident of unsafe practice or unethical conduct of a health care provider to —
 - (a) the employer or other authority responsible for the health care provider; or
 - (b) the Council.
 37. guarantees that satisfaction or a cure will result from the performance of professional services;
 38. orders excessive tests, treatments, or uses treatment facilities not warranted by scientific evidence for the condition of the patient;
 39. uses a secret or special method of treatment which he or she refuses to divulge to the Public Health Authority or the Council.
 40. fails to wear a conspicuously displayed, legible identifying badge which indicates the practitioner's name and authorised professional title pursuant to the law, while practicing as an employee or operator of a hospital, clinic, group practice or multi-professional facility, or at a commercial establishment offering health services to the public;
 41. enters into an arrangement or agreement with a pharmacy for the compounding and dispensing of coded or specially marked prescriptions.

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42. fails to post conspicuously at the site of the professional practice the name and registration number of all of the medical practitioners or dentists engaged in the practice at that site;
 43. fails to provide access by qualified persons to patient information in accordance with an existing law or official procedure;
 44. knowingly or willingly performs an illegal intervention on a patient;
 45. knowingly or willfully performs a complete or partial autopsy on a deceased person without lawful authority;
 46. fails to hand over a patient to another treating medical practitioner or dentist in a manner that is acceptable to the profession;

(Note: Handing over of patients either as referral to a different institution or for the continuation of care in the same institution must follow set procedures and must be accompanied by accurate and complete documentation of the course of illness, care given and the reasoning for the care given. Such documentation shall include any adverse event during care.)

47. fails to comply with a signed agreement to practice medicine or dentistry in Seychelles without lawfully breaking the agreement or fails to comply with a provision of a written agreement within which the registered medical practitioner or dentist has agreed to provide medical service, or fails to comply with any agreement entered into.
48. fails to complete forms or reports required for the imbursement of a patient by a third party;

(Note: Reasonable fees may be charged for such forms or reports, but prior payment for the professional services to which such forms or reports relate may not be required as a condition for making such forms or reports available.)

49. fails to write legibly on a prescription or the case notes of a patient, the date of the prescription or medical or dental intervention, the name, surname, work address, contact details and signature of the medical practitioner or dentist;

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50. fails to write legibly in the case notes or other documents associated with the care of a patient;

(Note: If the handwriting of the medical practitioner or dentist cannot be easily understood by others, the medical practitioner or dentist should write in block letters.)

51. fails to use scientifically accepted barrier precautions and infection control practices as established by a public health law or any other law or procedure; or

52. exceeds the professional power or privilege which the medical practitioner or dentist knows or ought to know would bring the profession into disrepute or put one or more patients at risk.”

MADE this day of, 2017.

**JEAN PAUL ADAM
MINISTER OF HEALTH
AND SOCIAL AFFAIRS**

