

MEDICAL AND DENTAL ACT, 1972 N.R.C.D. 91

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N.R.C.D. 91

MEDICAL AND DENTAL ACT, 1972(1)

AN ACT to establish the Medical and Dental Council and to provide for related matters.

The Medical and Dental Council

1. Establishment of the Council

There is hereby established a council to be known as the Medical and Dental Council.

2. Members of the governing body

The governing body of the Council is a Board consisting of

(a) six registered medical practitioners including a military medical officer and two registered

dental practitioners elected by the registered medical and dental practitioners,

(b) two representatives of the University of Ghana Medical School,

(c) four non-medical members, namely,

(i) one representative of the Ghana Academy of Arts and Sciences,

(ii) one representative of the Councils of the Universities, and

(iii) two distinguished citizens, one of whom is a woman,

(d) the Director-General of the Health Service or the representative of the Director-General, and

(e) the Director of Medical Services, Ministry of Defence, or the representative to the

Director.2(2)

3. Chairman of the Board

The members of the Board shall elect from their number a registered medical practitioner as the

chairman of the Board.

4. Functions of the Council

(1) The Council is concerned with medical and dental practitioners and is responsible for securing, in

the public interest, the highest standards in the practice of medicine and dentistry.

(2) The Council shall in particular

(a) ensure that courses of study and training in medicine or dentistry at a medical school or a

university in the Republic can sufficiently guarantee possession of the knowledge and skill

needed for the efficient practice of medicine or dentistry;

(b) prescribe standards of professional conduct;

(c) uphold and enforce those standards by the disciplinary powers conferred upon it by this Act;

and

(d) keep registers of duly qualified practitioners.

5. Term of office of the members

(1) The chairman and the members of the Board, other than an ex officio member, shall hold office

for a term not exceeding five years but are eligible for re-election or re-appointment to the Board.

(2) A member of the Board, may resign from office by letter addressed to the chairman of the Board.

(3) In the event of the death or resignation of a member before the completion of the term of office, a

new member shall, subject to subsection (4), be elected or appointed to hold office for the remaining term

of office.

(4) An election or appointment shall not be made under subsection (3) if the remaining term of office

is one year or less.

6. Meetings of the Board

(1) The Board shall meet at least once in every three months for the performance of its functions at the

times and places determined by the chairman.

(2) The chairman may, and shall on the request in writing of not less than seven members of the

Board, call an extraordinary meeting of the Board at the time and place determined by the chairman.

(3) The chairman shall preside at meetings of the Board and in the absence of the chairman the

members of the Council present shall appoint one of their number to preside.

(4) The quorum of the Board is seven members of the Board.

(5) Questions proposed at a meeting of the Board shall be decided by a majority of the votes of the

members present and voting, and where the votes are equal the chairman or the person presiding shall

have a deciding vote.

(6) The Board may request the attendance of a person to act as an adviser at a meeting of the Board,

and that person while so attending shall have the powers of a member except the power to vote on a

question.

(7) The validity of an act or the proceedings of the Board shall not be affected by a vacancy among

the members, or a defect in, the appointment or election of a member of the Board.

(8) Subject to this section, the Board may regulate its own procedure.

7. Committees of the Board

(1) The Board shall establish committees to be known respectively as the finance committee, the

penal cases committee and the disciplinary committee.

(2) The First Schedule has effect with respect to the committees.

(3) The Board may appoint any other committees consisting of a number of persons, whether

members of the Board or not, to perform a function of the Board or advise the Board on the performance

of its functions under this Act.

8. Allowances

The members of the Board and persons attending meetings of the Board shall be paid the travelling

and any other allowances approved by the Minister responsible for Finance.

Officers and Employees of the Council

9. Registrar

(1) The Board shall appoint a registered medical practitioner on the terms and conditions that it

determines, as registrar of the Council.

(2) The registrar shall perform the prescribed functions under this Act and any other functions

assigned by the Board.

10. Treasurer

(1) The members of the Board shall elect one of their number to be treasurer of the Council.

(2) The treasurer may resign as treasurer by letter addressed to the chairman.

(3) The treasurer is generally responsible for the proper administration of the finances of the Council

and shall in particular,

(a) exercise a general superintendence over the income and expenditure of the Council, and

(b) ensure that the accounts of the Council are properly kept.

11. Other employees of the Council

The Council may employ on the terms and conditions that the Board determines, the number of

persons required for the proper and efficient performance of the Council's functions.

Finances of the Council

12. Funds of the Council

(1) The funds of the Council include

(a) the grants received from the Government by the Council for the performance of its functions,

which grants are hereby charged on the Consolidated Fund,

(b) the moneys accruing to the Council in the performance of its functions including fees paid by

practitioners on registration; and

(c) gifts and any other moneys received by the Council in the performance of its functions.

(2) The moneys received by or on behalf of the Council shall be deposited to the credit of the Council

at a bank approved by the Council.

13. Accounts and audit

(1) The Council shall keep proper books of account and proper records relating to the accounts in the

form approved by the Auditor-General.

(2) The books and accounts of the Council shall be audited each year by the Auditor-General, who

shall have access to the books, records, stores, and any other matters relating to the accounts, and who

shall draw attention in the report to irregularities in the accounts.

(4) The Council shall pay in respect of the audit the fee that the Auditor-General and the Council may

agree on, or in the case of failure to agree, the fee determined by the Minister responsible for Finance.

(5) The Council shall, as soon as possible after receiving the report of the Auditor-General under this

section, forward a copy of the report to the Minister responsible for Health.

(6) The Minister responsible for Health shall, as soon as practicable on receipt of the report submit to

Parliament a copy of the Auditor-General's report forwarded under this section.

14. Functions of the finance committee

The finance committee established under section 7 shall

(a) advise the Council with respect to the appointment, remuneration and the terms and

conditions of service of persons employed by the Council under section 11, and

(b) perform any other functions relating to the financial affairs of the Council assigned by the

Council.

Education and Examination of Medical and Dental Practitioners

15. Particulars of studies and examinations

(1) The Council may request a medical school or university to submit to the Council at the time

specified by the Board particulars of the courses of study and examinations at the school or university.

(2) The Board may make the necessary recommendations with respect to the courses of study or

examinations.

16. Appointment of inspectors for examinations

(1) The Council shall appoint a number of inspectors who shall attend at the direction of the Board, all

or any of the examinations held by a medical school or university in the Republic.

(2) Inspectors appointed under subsection (1) shall not interfere with the conduct of the examination,

but shall report to the Council their opinion as to the sufficiency of the examination which they attend and

any other matters relating to the examination which the Council may require them to report.

(3) The Council shall forward to a medical school or university, a copy of the report of the inspectors

on an examination held by the medical school or university, and may request the school or university to

submit to the Council its comments on the report not later than twenty-eight days after the receipt of the

copy of the report, or a longer time allowed by the Council.

17. Appointment of visitors of medical schools

(1) The Council may appoint persons, who are not members of the Council, to visit places where

instruction is given to medical and dental students by or under the direction of a medical school or

university.

(2) The visitors appointed under this section shall report to the Council as to the sufficiency of the

instruction given in the places which they visit and as to any other matters relating to the instruction

which may be specified by the Council generally, or in a particular case, but a visitor shall not interfere

with the giving of an instruction.

(3) On the receipt of a visitor's report the Council shall forward a copy of the report to the relevant

medical school or university, and on the receipt of the copy that medical school or university may, within

the period which is not less than one month specified by the Council make known to the Council its

observations on the report or objections to the report.

18. Invalidation of certain examinations and qualifications

(1) Where it appears to the Board that the standard of proficiency required of candidates at an

examination intended by a medical school or university to be a qualifying examination is insufficient, the

Council may, after giving the medical school or university an opportunity to make representation or

objections, declare that the examination is not a qualifying examination for the purposes of registering a

practitioner under this Act.

(2) Where it appears to the Board that the courses of study, training and examinations at a medical

school or university are inadequate, the Council may, after giving the medical school or university an

opportunity to make representations or objections, declare that a qualification intended by the medical

school or university to be a primary qualification, is not a primary qualification until a time to be

specified by the Council in the Gazette, for the purposes of registering a practitioner under this Act.

(3) In this section,

“primary qualification” means a qualification recognised by the Council as furnishing a sufficient

guarantee of the possession of the knowledge and skill needed for the efficient practice of medicine or

dentistry;

“qualifying examination” means an examination which a medical or dental student is required to

pass in order to obtain a primary qualification.

19. Remuneration of inspectors and visitors

The Council may pay to inspectors and visitors appointed under sections 16 and 17 as part of the

expenses of the Council, the remuneration determined by the Board with the approval of the Minister

responsible for Finance.

Registration of Practitioners

20. Registration

(1) The Council shall provide three classes of registers, namely, the standing, temporary and

provisional registers for the registration of practitioners.

(2) The registers shall be kept by the registrar.

(3) The Board may direct a person to undergo an examination which the Board considers necessary

prior to registration under this Act.

(4) A person shall not be registered under this Act unless that person is a member of the Ghana

Medical Association.3(3)

(5) The Board may exempt a person who does not intend to practise permanently in the Republic and

who is in the country at the invitation of the Government in accordance with subsection (4).4(4)

(6) Despite a provision of this Act, a practitioner who renders services only in respect of the staff of a

foreign embassy or diplomatic mission is exempted from registration under this Act.

21. Standing registers

(1) Subject to any other provision of this Act, a person, other than a person required by this Act to be

registered on a temporary register, is entitled on payment of the fee payable on registration, to be

registered on the standing register as a medical or dental practitioner, if that person

(a) holds a primary qualification,

(b) is of good character,

(c) is by law entitled to practise medicine or dentistry in the country where that person obtained

the primary qualification or would if that person were a national of that country be so entitled,

(d) subject to subsection (2), successfully passes the prescribed examination,

(e) satisfies the requirements of this Act as to experience, and

(f) intends to practise permanently in the Republic.

(2) The Board may, having regard to the qualification of a person, exempt that person from the whole

or a part of the prescribed examination, but the Board may in a particular case require that person to pass

the prescribed examination prior to the registration of that person under this Act.

22. Requirements as to experience

(1) For the purposes of the requirement as to experience mentioned in section 21 (1) (e),

(a) a person, in addition to obtaining a primary qualification and, if that person is a person

required to sit for the prescribed examination, has successfully passed that examination or

has been exempted under section 21 (2), shall be engaged for the prescribed period in

employment in a resident medical or dental capacity, in one or more approved hospitals or

institutions and obtain a certificate under this section;

(b) a person who has been employed as mentioned in paragraph (a) may apply to the hospital or

institution in which that person has been employed or any other body approved by the Board

for a certificate under this section, and if the hospital, institution or the other body is satisfied

(i) that during the time of the employment that person has been engaged for the prescribed period in medicine or dentistry, and

(ii) that the service of that person while so employed has been satisfactory,

it shall grant that person a certificate in the prescribed or approved form that it is satisfied.

(2) In this section

“approved hospitals or institutions” means hospitals or institutions approved by the Council for

the purposes of this section;

“employment in a resident medical or dental capacity” means employment in the practice of

medicine or dentistry, where the person employed is resident in the hospital or institution where that

person is employed or conveniently near to the hospital or institution and is by the terms of the

employment required to be so resident.

23. Provisional registers

The following provisions shall have effect for enabling persons who wish to obtain certificates under

section 22 to be employed in a resident medical and dental capacity in one or more approved hospitals or

institutions:

(a) a person who, apart from a requirement as to experience, would be entitled to be registered

under section 21 on a standing register is entitled to be registered on a provisional register on

production of the proper evidence of having been selected for employment in a resident

medical and dental capacity;

(b) a person on a provisional register shall be deemed to be registered under section 21 so far as

is necessary to enable that person to be engaged in employment in a resident medical or

dental capacity but no further.

24. Temporary registers

(1) A person who does not intend to practise permanently in the Republic but who is otherwise

qualified to be registered on a standing register is entitled to be registered on a temporary register as a

medical or dental practitioner, upon compliance with paragraphs (a), (b) and (c) of subsection (1) of

section 21, and on payment of the fee payable on registration.

(2) A person otherwise qualified to be registered on a standing register who is required by the Council

to serve a period of mandatory occasional training shall be registered on a temporary register for the

duration of that period of training and, on payment of the fee payable on registration.

(3) A person on a provisional or temporary register may be transferred to the standing register on

producing to the Registrar the written evidence that the Council may require in order to be satisfied that

the requirements of this Act as to experience have been met, and on payment of the fee payable for

registration on the standing register.

25. Restrictions on practitioners on temporary registers

(1) A practitioner on a temporary register shall not practise medicine or dentistry except in an

approved hospital or institution.

(2) A practitioner who contravenes subsection (1) commits the offence of infamous conduct in a

professional respect and shall cease to be registered under this Act with respect to the act constituting the

contravention.

26. Registration procedure

(1) Subject to any other provision of this section, a right to registration conferred by this Act is

conditional on the making of an application, supported by the evidence that is required by this section.

(2) An application for registration on any of the registers shall be made to the registrar.

(3) A person making the application

(a) shall produce to the registrar the document conferring or evidencing the qualification by

virtue of which the application is made, or

(b) may send by registered post to the registrar information of the name and address and

evidence of the qualification of that person and the time the qualification was obtained.

(4) The registrar shall not register a qualification, whether on first registration of a person, or by way

of addition or substitution unless satisfied by the evidence required by this Act that the person claiming

the qualification is entitled to the qualification.

(5) Where the registrar is not satisfied under subsection (4), an applicant may appeal to the

disciplinary committee and the committee shall decide the matter as it considers just.

27. Registration fees

(1) The fee payable by a practitioner before registration under this Act

(a) is one hundred and fifty thousand cedis in the case of the standing register, and

(b) in the case of the provisional or temporary register a sum of money determined by the Board

or a sum of money prescribed by the Regulations.

(2) The Council may exempt a person who does not intend to practise permanently in the Republic

and who is in the country at the invitation of the Government, from the payment of the fee prescribed

under subsection (1).5(5)

(3) A practitioner registered on the standing register shall pay the annual fee for retention of the

registration as prescribed by the Regulations.

28. Annual list of registered practitioners

The registrar shall, in January each year, publish in the Gazette the names, addresses, dates of

registration and qualifications of the registered practitioners.

29. Removal of names from registers

(1) The registrar shall remove from the register the name of a person who has died or who the

registrar has reason to believe has left the Republic and does not intend to return.

(2) A person whose name has been removed from the register under subsection (1) is entitled on

returning to Ghana, to have the name restored to the register without the payment of a fee.

(3) For the purposes of subsection (2), an application by a person who is not a citizen for the

restoration of the name to the register under subsection (2), is subject to the approval of the Council.

30. Practitioners to notify registrar of change of address

A registered practitioner shall notify the registrar in writing of a change or an alteration in the address

of the registered practitioner as soon as the change or alteration occurs.

31. Removal for failure to reply to registrar's communication

(1) The registrar may recommend to the Council the removal from any of the registers of the name of

a practitioner who, for a period of one year or more, has continually failed to answer written

communications addressed to that practitioner by the registrar at the address as listed in the Gazette or

notified to the registrar under section 30.

(2) The Board may direct the registrar to remove from any of the registers the name of a practitioner

regarding a recommendation made under subsection (1).

(3) A practitioner whose name is removed from a register pursuant to subsection (2) shall have the

name restored to the register if that practitioner

(a) applies to the registrar,

(b) satisfies the requirements of this Act as to registration, and

(c) pays again the registration fee referred to in section 27 (1).

32. Evidence of registration

A copy of the list published in accordance with section 28 shall be evidence in proceedings that the

persons specified in the list are registered under this Act, and the absence of the name of a person from a

copy of the list, shall be evidence until the contrary is shown, that that person is not registered under this

Act.

33. Proof of registers

(1) The registers and the copies of the registers or extracts from the registers certified and signed

personally by the registrar shall be admitted as evidence in a Court.

(2) The registrar shall produce or cause to be produced a register kept by the registrar when required

to do so by a Court.

34. Insertion in register of additional qualifications

A person registered under this Act who has obtained a higher degree or additional qualification

recognised by the Council is entitled to have the higher degree or additional qualification inserted in the

register in substitution for, or in addition to, the qualification previously registered, on payment of a fee of

one hundred and fifty thousand cedis.

35. Obtaining registration by false representations

A person who wilfully procures or attempts to procure personal registration under this Act by making

or producing or causing to be made or produced a false or fraudulent certificate, representation or

declaration whether verbally or in writing, and any other person aiding or assisting that person commits

an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty

units or to a term of imprisonment not exceeding twelve months, or to both the fine and the imprisonment.

36. Damaging or destroying register

A person who wilfully destroys or damages or causes to be destroyed or damaged the whole or a part

of a register commits a misdemeanour.

37. Correction of errors in register

(1) A person shall not make an erasure in a register or certified copy or an extract of a register.

(2) Where an error occurs, a line or red ink shall be drawn through a word improperly inserted so as to

leave the original word legible, and a word which may have been omitted shall be interlined or written

in the margin with red ink and the registrar shall subscribe the name of the registrar in the margin

opposite to the correction.

38. Appeal against refusal to register

(1) A practitioner whose application is to be registered, or restored under section 31 (3), on a register

is refused by the registrar, may appeal against the registrar's refusal to the Council, and the Board may

after hearing the registrar and the practitioner issue to the registrar the direction it considers just.

(2) The Council may make rules for regulating the hearing of appeals under this section.

Effect of Registration

39. Rights of registered practitioners

A practitioner registered under this Act has

(a) the right to practise medicine or dentistry to the extent allowed under this Act;

(b) the right to recover in a Court, with full costs of suit, reasonable charges for medical,

surgical or dental advice or attendance or for the performance of an operation, or for a

medicine or an appliance which the practitioner both prescribed and supplied;

(c) the right, subject to the relevant enactment, to prescribe and store dangerous and restricted

drugs;

(d) the right to sign a certificate or any other document required by law to be signed by a

practitioner.

40. Restrictions on practitioners not registered

(1) A practitioner is not entitled to

(a) practise medicine or dentistry,

(b) recover in a Court a charge or cost mentioned in section 39, or

(c) sign a certificate or document required by law to be signed by a practitioner,

unless that practitioner, is registered under, and if registered, to the extent only allowed by this Act.

(2) A certificate or any other document signed in contravention of subsection (1) is void.

41. Certain treatments permitted

(1) A person not registered as a practitioner under this Act

(a) may apply a dressing;

(b) may engage in the practice of an indigenous system of therapeutics if that person

(i) is an indigenous inhabitant of the Republic,

(ii) does not perform an act dangerous to life, and

(iii) does not supply, administer or prescribe a restricted drug,

(c) may practise the injection of drugs into the skin, subcutaneous tissues, muscles or veins of

persons if that person is licensed by or under the authority of the Director-General of the

Health Service to give the injection and in accordance with the conditions of the licence;

(d) may carry out lumbar punctures if licensed by or under the authority of the Director-General

of the Health Service to make those punctures and in accordance with the conditions of the

licence.

(2) A person who, in injecting a drug or carrying out a lumbar puncture contravenes or fails to comply

with a condition of the licence as is mentioned in subsection (1), commits an offence and is liable on

summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not

exceeding two years or to both the fine and the imprisonment.

Disciplinary Provisions

42. Functions of the penal cases committee

The penal cases committee established under section 7 may decide whether a disciplinary case referred

to it under this Act in which

(a) a practitioner has been convicted in the Republic or elsewhere of an offence, or

(b) an allegation of infamous conduct in a professional respect is made against a practitioner,

ought to be referred to the disciplinary committee to be dealt with in accordance with section 43.

43. Functions of the disciplinary committee

(1) The disciplinary committee may hold an inquiry into a disciplinary case referred to it under this

Act.

(2) The disciplinary committee, if satisfied on the facts that a disciplinary case has been made out

against a practitioner, may

(a) reprimand the practitioner, or

(b) suspend the practitioner from practice for a period determined by the committee, or

(c) direct the registrar to remove the name of the practitioner from the register, or

(d) suspend or postpone the giving of the direction to the registrar for the period specified by the

committee; and make an order as to costs.

44. Proceedings in disciplinary cases

The Second Schedule shall have effect with respect to proceedings in disciplinary cases, applications

for restoration to the register, procedure, voting and any other supplementary and general matters

concerning an inquiry under this Act.

45. Legal assessor

(1) For the purpose of advising the disciplinary committee on questions of law arising in proceedings

before the committee, a lawyer shall be appointed as a legal assessor by the Council after consultation

with the Attorney-General.

(2) The legal assessor may be appointed generally or for a particular proceeding or class of

proceedings.

(3) The Third Schedule shall have effect with regard to legal assessors appointed under this section.

46. Appeal against removal or suspension

(1) Where under section 43 the disciplinary committee determines that a disciplinary measure be

applied to a person, the registrar shall serve on that person a notification of the determination of the

committee.

(2) A notification required to be served under subsection (1) may be served by post in a registered

letter addressed to the person on whom it is to be served at the address on the register, or at the last known

address, if that address differs from the address on the register, and it appears to the registrar that the latter

service will be more effective.

(3) Within twenty-one days of the service of a notification under subsection (1), the person on whom

it was served may, in accordance with the rules set out in the Fourth Schedule, appeal to the Court of

Appeal against the determination contained in that notification in a case where the determination involves

removal from the register or suspension from practice.

(4) The Council may appear as respondent on the appeal, and for the purpose of enabling directions to

be given as to the costs of the appeal, the Council is a party to the proceedings whether it appears on the

hearing of the appeal or not.

(5) Where an appeal is not brought against a determination mentioned in subsection (1), or where the

appeal is brought but withdrawn or struck out for want of prosecution, the determination shall take effect

on the expiration of the time for appealing or on the withdrawal or striking out of the appeal.

(6) Where an appeal is brought against a determination, the determination shall take effect if and

when the appeal is dismissed and not otherwise.

47. Restoration to the register

(1) The disciplinary committee may direct the restoration to the register of the name of a practitioner

which has been removed from the register.

(2) An application for the restoration of a name to the register shall not be made

(a) before the expiration of twelve months from the date of the removal, or

(b) in a period of twelve months in which the application has already been made by or on behalf

of the person whose name has been removed.

Miscellaneous

48. False assumption of professional title

(1) A person commits an offence if that person wilfully and falsely takes or uses a name, title, an

addition or a description evidently implying a qualification to practise medicine or dentistry or, without

being registered under this Act,

(a) practices or professes to practise or publishes the name of that person as practicing medicine

or dentistry, or

(b) receives a payment for practicing medicine or dentistry.

(2) The name, title, addition or description referred to in subsection (1) includes for the purposes of

this section,

(a) a physician,

(b) a doctor of medicine,

(c) a licentiate in medicine and surgery,

(d) a bachelor of medicine,

(e) a surgeon,

(f) a general practitioner or apothecary,

(g) a dentist,

(h) a dental surgeon,

(i) a dental practitioner, and

(j) any other name, title addition or description evidently implying that the person taking or

using that name, title, addition or description is registered under this Act or is recognised by

law as a physician, surgeon or a medical or dental practitioner.

(3) A person who commits an offence under this section is liable to a fine not exceeding two hundred

and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and

the imprisonment, and to an additional fine of one penalty unit for every day the offence is continued.

49. Council's powers in respect of drugs

The Council may, by legislative instrument, and after consultation with the Pharmacy Board

established under the Pharmacy and Drugs Act, 1961 (Act 64) prohibit, restrict, or in any other way

exercise the control that the Board considers necessary over the importation of the drugs specified in the instrument.

50. Definition of practice of dentistry

(1) For the purposes of this Act, the practice of dentistry includes the performance of an operation and

the giving of a treatment, an advice or attendance which is usually performed or given by a dental

practitioner.

(2) A person who performs an operation or gives a treatment, an advice or attendance on or to a

person as a preparatory to or for the purpose of or in connection with the fitting, insertion or fixing of

dentures, artificial teeth or any other dental appliances has practiced dentistry within the meaning of this

Act.

(3) Dental work shall not be treated for the purposes of this Act as amounting to the practice of

dentistry if it is undertaken

(a) by a person recognised by the Council as a student of dentistry, or by a person recognised by

the Council as a medical student, as part of a course of instruction approved by the Council

for students, or as part of an examination so approved; or

(b) by a person as part of a course of instruction which that person is following in order to

qualify for membership of a class of ancillary dental workers or as part of examinations the

passing of which qualifies a person for membership of a class of ancillary dental workers.

(4) Subject to subsection (3), a person who undertakes dental work in the course of studies shall be

treated, for the purposes of this Act as practicing dentistry if that person would have been treated for those

purposes as practicing dentistry when such dental work has been undertaken in the course of earning a

livelihood.

51. Construction of terms implying medical qualifications

The words “legally qualified medical practitioner” or “duly qualified medical practitioner” or

“duly qualified medical officer”, or any other words signifying a person recognised by law as medical

practitioner or member of the medical profession, when used in an enactment with reference to those

persons, shall be construed to mean a person registered as a medical practitioner under this Act.

52. Regulations

(1) The Council may, by legislative instrument, make Regulations the Board considers necessary or

expedient for giving effect to this Act and for the due administration of this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations may

(a) specify the duties of the registrar and the other officers of the Council;

(b) specify the manner in which applications for registration shall be made and the form in

which the registers are to be kept;

(c) determine the form of the certificates, licences, notices and any other documents required for

the carrying out of the purposes of this Act;

(d) amend, replace or revoke a Schedule.

53. By-laws

The Council may make by-laws, not inconsistent with this Act, to provide for

(a) the financial procedures to be observed by the Registrar, treasurers and any other employees

of the Council,

(b) standing orders for the proceedings of the Board; and

(c) any other matters as the Board thinks necessary.

54. Interpretation

In this Act, unless the context otherwise requires,

“approved hospitals or institutions” means hospitals and institutions approved by the

Council;6(6)

“chairman” means the Chairman of the Medical and Dental Council;

“citizen” means a citizen of Ghana;

“Council” means the Medical and Dental Council established by section 1;

“Court” means a Court of competent jurisdiction;

“disciplinary case” has the meaning assigned to it by section 42;

“disciplinary measure” has the meaning assigned to it by section 43 (2);

“medicine” includes surgery and midwifery;

“practitioner” includes a person with qualifications recognised by the Council professing to

practise medicine, or dentistry, or holding out as ready and willing to treat patients;

“prescribed” means prescribed by the Board, or required to be prescribed by this Act or the

Regulations;

“primary qualifications” includes,

(a) the qualifying degrees of the Medical School of the University of Ghana, Legon,

(b) a qualification recognised by the General Medical Council of Great Britain, if it is obtained

in a country with which the Medical and Dental Council has reciprocal arrangement as

regards recognition of qualifications,

(c) a degree or licence in dentistry granted by a medical authority granting diplomas in dentistry,

namely, any of the Universities or other bodies who choose appointed members of the

General Medical Council of Great Britain including a new University created in the Republic

or Ireland after the commencement of the Dentists Act, 1957 of the United Kingdom any of

whose examinations become qualifying examinations in medicine and dentistry for the

purposes of the Medical Act, 1956 of the United Kingdom, and

(d) any other medical and dental qualifications that the Council may in writing specify to the

registrar.

55. Repeal and savings

Spent.7(7)

SCHEDULES

First Schedule

COMMITTEES OF THE COUNCIL

THE FINANCE COMMITTEE

[Section 7 (2)]

1. (1) The finance committee shall consist of the chairman of the Board, the treasurer and two other

members of the Board appointed by the Board.

(2) The treasurer shall be the chairman of the Finance Committee.

2. (1) The chairman of the finance committee shall preside at the meetings of the committee and in the

absence of the chairman a member of the finance committee as the committee may choose, shall preside

at the meeting.

(2) The finance committee shall meet at the times determined by the chairman of the committee.

(3) The quorum of the finance committee is three.

3. The members of the finance committee, other than the chairman, shall hold office for the term

prescribed by the Board.

4. The validity of an act or the proceedings of the finance committee shall not be affected by a vacancy

among its members or a defect in the appointment or election of a member.

THE PENAL CASES COMMITTEE

5. (1) The penal cases committee shall consist of the chairman of the Board and four other members of

the Board appointed by the Board, one of whom is a person not registered under the Act.

(2) The chairman of the Board shall be the chairman of the penal cases committee.

6. (1) The chairman of the penal cases committee shall preside at the meetings of the committee and in

the absence of the chairman a member of the committee as the committee may choose, shall preside at the

meeting.

(2) The penal cases committee shall meet at the interval before each meeting of the disciplinary

committee determined by the chairman of the committee, and at the time and place determined by the

chairman.

(3) The quorum of the penal cases committee is three.

7. (1) The members of the penal cases committee, other than the chairman of the committee, shall hold

office for the term determined by the Board.

(2) Where a member of the penal cases committee vacates office otherwise than by the expiry of the

term of office, the vacancy shall be filled by co-option by the other members of the committee from

among members of the Board, and the person co-opted shall hold office until the end of the term of office

of the person in whose place the vacancy occurred.

(3) Subject to subparagraph (4), a member of the penal cases committee, on vacating office as a

member of the Board, ceases to be a member of the committee.

(4) For the purposes of subparagraph (3), a member of the Board has not vacated office if the member

has again been appointed or elected to be a member of the committee not later than the day of the

vacation of office.

8. The validity of an act of proceedings shall not be affected by a vacancy among its members or a

defect in the appointment or election of a member.

THE DISCIPLINARY COMMITTEE

9. (1) The disciplinary committee shall consist of the chairman of the Board and six other members of

the Board appointed by the Council, at least two of whom are elected members of the Board and at least

one person not registered under the Act.

(2) The chairman of the Board shall be the chairman of the disciplinary committee.

10. (1) The chairman of the disciplinary committee shall preside at the meetings of the committee and in

the absence of the chairman a member of the committee chosen by the committee shall preside.

(2) Except in so far as the committee or the chairman of the committee may otherwise direct, the

disciplinary committee shall meet twice in every year, at the times determined by the chairman.

(3) Without prejudice to subparagraph (2), a meeting of the disciplinary committee may be summoned

as directed by the chairman.

(4) Meetings of the disciplinary committee shall, except in so far as the chairman may otherwise

direct, be held at the office of the Council.

(5) Members of the disciplinary committee shall be summoned to meetings of the committee by the

sending of notice by the registrar or a person authorised by the chairman to act in place of the registrar.

11. The decisions of the disciplinary committee shall be decided by the votes of a simple majority of the

members present at a meeting.

12. (1) The quorum of the disciplinary committee is five.

(2) For the hearing of a case at least one of the members who is not registered under the Act, and at

least two of the members who are elected members of the Board shall attend.

13. A person, other than the chairman, who acted as a member of the penal cases committee when that

committee has in accordance with the Act referred a matter to the disciplinary committee, shall not act as

a member of the disciplinary committee in relation to that matter.

14. The members of the disciplinary committee, other than the chairman, shall hold office for the term

prescribed by the Board.

15. The validity of an act or the proceedings of the disciplinary committee shall not be affected by a

vacancy among its members or a defect in the appointment or election of a member.

16. The disciplinary committee may administer oaths, and a party to the proceedings may issue out writs

of subpoena ad testificandum and duces tecum, but a person shall not be compelled under that writ to

produce a document which that person could not be compelled to produce on the trial of an action.

Second Schedule

DISCIPLINARY CASES

MEDICAL AND DENTAL COUNCIL DISCIPLINARY COMMITTEE (PROCEDURE) RULES

[Section 44]

PART ONE

PROCEEDINGS IN DISCIPLINARY CASES

SUBMISSION OF COMPLAINTS OR INFORMATION: FORMULATION OF CHARGES

1. The functions of the disciplinary committee under section 43 (1) of the Act shall be exercised in

accordance with the following rules:

(a) a disciplinary measure shall not be applied to a person under section 43 (2) of the Act except

in consequence of an inquiry held in accordance with this Part of these Rules into a charge

formulated in a notice of inquiry sent in accordance with this Part to the person against

whom the charge is made;

(b) before the formulation of a charge, the matter out of which it arises must have been

considered by the penal cases committee and referred by it to the disciplinary committee for

inquiry.

2. (1) Where a complaint, or information, in writing is received by the registrar, the registrar shall

submit the matter to the chairman of the disciplinary committee if it appears to the registrar,

(a) in a case relating to conviction for an offence, that the conviction is for an offence which is

not excepted by the penal cases committee from the application of disciplinary measures

under the Act;

(b) in a case relating to conduct,

(i) that a question arises as to whether the conduct alleged constitutes infamous conduct in

a professional respect, and

(ii) that the complaint or information has been received from a public officer or a member of

the Board or, if not received from a public officer, has been received from a person who

has submitted to the chairman of the disciplinary committee a statutory declaration containing the matters specified in subrule (2).

(2) The statutory declaration mentioned in subrule (1) (b) (ii) shall contain the complainant's name

and address and any other particulars that the chairman of the disciplinary committee may require and the

declarant shall state in the statutory declaration the grounds for the belief in the truth of a fact stated in the

complaint or information for which the declarant cannot vouch personally.

(3) In a case relating to conduct the chairman of the disciplinary committee unless it appears to the

chairman that the matter need not proceed further, shall direct the registrar to write to the practitioner,

(a) notifying the practitioner of the receipt of the complaint or information, and indicating the

matters which appear to raise a question whether the practitioner has committed a conduct

infamous in a professional respect,

(b) informing the practitioner of the date of the next meeting of the penal cases committee, and

(c) inviting the practitioner to submit to the Council the explanation which the practitioner may

have to offer.

(4) Subject to this rule, the chairman of the disciplinary committee may direct the registrar to refer the

cases to the penal cases committee together with the explanations furnished under subrule (3).

3. (1) Where a disciplinary case has been referred to the penal cases committee, that committee shall,

having regard to the explanation furnished, consider the case and, subject to this rule, determine

(a) whether an inquiry shall not be held in the case by the disciplinary committee, or

(b) whether the matter in question shall, in whole or in part, be referred to the disciplinary

committee for inquiry at the next meeting of that committee, or at a future meeting that the

penal cases committee or the chairman of the disciplinary committee may determine.

(2) Where the penal cases committee determines that an inquiry shall be not held in a case relating to

conduct, the registrar shall inform the complainant and the practitioner of the decision of the committee in

the terms directed by the penal cases committee.

(3) Before coming to a determination the committee may cause further investigations, or obtain

further advice or assistance from the solicitor.

(4) Where the penal cases committee is of opinion that further investigations are desirable, or where at

the time when the penal cases committee is considering a case relating to conduct, an explanation has not

yet been received from the practitioner, the penal cases committee may make a provisional determination

that the matter in question shall in whole or in part be referred to the disciplinary committee as mentioned

in subrule (1) (b).

(5) Where a provisional determination is made under subrule (4),

(a) the chairman of the penal cases committee may, after causing those members of the penal

cases committee who made the determination to be informed of the result of the further

investigations, or to be supplied with copies of the explanation subsequently furnished by the

practitioner, and after consultation with those members of that committee, and in accordance

with the opinions of those members or of the majority of them, direct that an inquiry shall

not be held or that the matter shall be referred;

(b) if the chairman of the penal cases committee directs that an inquiry shall not be held, the

registrar shall notify the members of the penal cases committee, and in a case relating to

conduct shall inform the complainant and the practitioner in the terms directed by the

chairman of the penal cases committee.

4. Despite anything in rules 1 to 3, where in a case relating to conviction, the chairman of the penal cases

committee or the penal cases committee has determined that an inquiry shall not be held, and the Council

subsequently received information or a complaint as to another conviction or as to the conduct of the

same practitioner, the chairman may direct that the former information or complaint shall be dealt with

under rules 1 to 3 together with the subsequent information or complaint as if a determination had not

been made.

5. (1) As soon as may be after a case has been referred to the disciplinary committee for inquiry, the

solicitor shall send to the practitioner, a notice of inquiry which shall

(a) specify, in the form of a charge or charges, the matter into which the inquiry is to be held,

and

(b) state the day, time and place at which the inquiry is proposed to be held.

(2) Except with the agreement of the practitioner, the inquiry shall not be fixed for a date earlier than

twenty-eight days after the date of the notice of inquiry.

(3) A notice of inquiry shall be in the form set out in the Appendix to this Schedule with the

variations that circumstances may require.

(4) A notice of inquiry shall be delivered to the practitioner or sent by post in a registered letter

addressed to the practitioner at the address on the register or any other address if it appears to the solicitor

that a letter so addressed is more likely to reach the practitioner.

(5) A copy of these Rules shall be sent with the notice of inquiry.

(6) Where there is a complainant, a copy of the notice of inquiry shall be sent to the complainant.

ACCESS TO DOCUMENTS

6. (1) The solicitor shall, on the request of a party to an inquiry and on the payment of the proper

charges, send to that party copies of the explanation, answer, admission or any other statement or

communication sent to the Council by a party to the inquiry.

(2) Subrule (1) does not compel the solicitor to produce copies of a written advice sent by the solicitor

to the Council which would be privileged from discovery in legal proceedings to which the Council were

a party.

(3) A party to an inquiry may give to any other party notice to produce a document alleged to be in

the possession of that party.

POSTPONEMENT OR CANCELLATION OF INQUIRY

7. (1) The chairman of the disciplinary committee may postpone the holding of an inquiry to a later date

or a later meeting as determined by the disciplinary committee.

(2) Where the holding of an inquiry is postponed,

(a) the solicitor shall as soon as may be appropriate, give notice of the postponement to every

other party;

(b) where the postponement is to a latter meeting of the committee, then on the determination of

the date on which the inquiry is to be held, the solicitor shall give notice of that date to every

other party.

8. (1) Where, after a complaint or information is referred to the disciplinary committee for inquiry, it

appears to the chairman of the disciplinary committee that the inquiry should not be held, the chairman

may, after consultation with the members of the penal cases committee and in accordance with the

opinion of those members or of the majority of them, direct that the inquiry shall not be held, and where

the chairman so directs and at the time of the direction a notice of inquiry has not been sent, rule 5 shall

not have effect.

(2) Where there is a complaint the chairman shall not direct that an inquiry shall not be held except

after communicating or endeavouring to communicate with the complainant.

(3) As soon as practicable after the giving of a direction, the solicitor shall give notice of the direction

to the complainant and to the practitioner.

AMENDMENT OF THE NOTICE OF INQUIRY OR CHARGE

9. (1) Where, before the hearing, it appears to the chairman of the disciplinary committee, or at any

stage of the hearing it appears to the disciplinary committee, that a notice of inquiry or charge is

defective, the chairman or committee shall give the necessary directions for the amendment of the notice

or charge to meet the circumstances of the case, unless, having regard to the merits of the case, the

required amendments cannot be made without injustice.

(2) Where, in the opinion of the chairman of the disciplinary committee, or the disciplinary committee

it is expedient, in consequence of the exercise by the chairman or the committee of the powers conferred

by subrule (1) that the inquiry should be postponed or adjourned, the chairman or committee shall give

the necessary directions.

(3) The solicitor shall as soon as may be give notice in writing to the complainant and to the

practitioner of the exercise by the chairman of the powers under either subrule (1) or (2).

OPENING OF INQUIRY

10. (1) Where the practitioner does not appear, the chairman of the disciplinary committee shall call on

the solicitor to satisfy the committee that the notice of inquiry has been received by the practitioner.

(2) Where the notice does not appear to have been received, the committee may nevertheless proceed

with the inquiry on being satisfied that reasonable efforts have been made to serve the notice of inquiry

on the practitioner.

(3) Where the practitioner appears or, in a case where the practitioner does not appear, and the

disciplinary committee proceeds with the inquiry, the charge shall first be read to the committee.

(4) After the reading of the charge the practitioner may object to the charge, or to a part of it in point

of law, and on that objection any other party may reply.

(5) Where the objection is upheld, further proceedings shall not be taken by the committee in relation

to the charge, or that part of the charge, to which the objection relates.

PROOF OF CONVICTION

11. (1) In cases relating to conviction the following order of proceedings shall be observed in respect of

proof of convictions alleged in the charge:

(a) the complainant, or, if a complainant does not appear, the solicitor, shall adduce evidence of

the convictions on any of them which the solicitor is prepared to prove;

(b) if as respects a conviction of which evidence is not adduced, the chairman of the disciplinary

committee shall announce that the conviction has not been proved;

(c) if the practitioner appears, then as respects each conviction of which evidence is adduced, the

chairman shall ask the practitioner whether the practitioner admits the conviction, and if it is

admitted, the chairman shall announce that the conviction has been proved;

(d) where the practitioner appears, and does not admit the convictions, the practitioner may then

adduce evidence, in respect of a conviction which had not been admitted, on the question

whether there has been a conviction as alleged, and may address the committee on that

question; but only one address may be made under this paragraph and, where the practitioner

adduces evidence, that address shall be made before the evidence is begun or after it is

concluded;

(e) where evidence is adduced under paragraph (d), the complainant, or, where a complainant

does not appear, the solicitor, may adduce evidence to rebut the evidence, and if the solicitor

does so the practitioner may again address the committee.

(2) On the conclusion of the proceedings under subrule (1), the committee shall consider every

conviction alleged in the charge, other than a conviction which has been admitted by the practitioner or as

to which it has been announced that the conviction has not been proved, and shall determine whether it

has been proved, and the chairman of the disciplinary committee shall announce their determination in the

terms approved by the committee.

FURTHER PROCEEDINGS ON PROOF OF CONVICTION

12. Where the disciplinary committee has found that a conviction has been proved,

(a) the chairman of the disciplinary committee shall invite the complainant or the solicitor, to

address the committee, and to adduce evidence, as to the circumstances leading up to the

conviction and as to the character and antecedents of the practitioner;

(b) the chairman shall then invite the practitioner, if present, to address the committee by way of

mitigation and to adduce evidence;

(c) the committee shall next consider and determine whether it should postpone judgment;

(d) if the committee determines to postpone judgment, the judgment of the committee shall stand

postponed until the future meeting of the committee as determined by the committee, and the

chairman of the disciplinary committee shall announce the committee's determination in the

terms approved by the committee;

(e) if the committee determines not to postpone judgment, it shall further consider and determine

whether, by reason of the conviction proved against the practitioner, the committee should

direct the removal of the practitioner's name from the register or the application of any other

disciplinary measures specified in section 43 (2) of the Act and the chairman of the

disciplinary committee shall announce the committee's determination in the terms approved

by the committee.

PROOF OF CHARGES RELATING TO CONDUCT

13. (1) In cases relating to conduct where the practitioner appears, the following order of proceedings

shall be observed in respect of proof of the charge:

(a) the complainant if present, shall open the case against the practitioner, and subject to the

directions given by the chairman of the disciplinary committee or the committee, where a

complainant does not appear the solicitor shall present the facts on which the complaint or

information is based;

(b) subject to paragraph (a), the complainant or the solicitor shall adduce evidence of the facts

alleged in the charge or the facts which the solicitor is prepared to prove;

(c) if as respects a charge evidence is not adduced, the committee shall record and the chairman

shall announce a finding that the practitioner is not guilty of infamous conduct in a professional respect in relation to the matter to which that charge relates;

(d) at the close of the case against the practitioner, the practitioner may make either or both of

the following submissions in respect of a charge as to which evidence has been adduced,

namely,

(i) that sufficient evidence has not been adduced on which the committee could find that

the facts alleged in the charge have been proved;

(ii) that the facts alleged in the charge do not constitute infamous conduct in a professional

respect,

and where that submission is made any other party may reply;

(e) if a submission is made under paragraph (d), the committee shall consider and determine

whether the submission should be upheld, and if the committee determines to uphold the

submission in respect of a charge, the committee shall record, and the chairman shall

announce, a finding that the practitioner is not guilty of infamous conduct in a professional

respect in relation to the matters to which that charge relates;

(f) in respect of a charge as to which evidence has been adduced, the practitioner may adduce

evidence in answer to the charge and, whether that evidence is adduced or not, the practitioner may address the committee; but only one address may be made under this

paragraph, and, where the practitioner adduces evidence, shall be made before that evidence

is begun or after it is concluded;

(g) at the close of the case for the practitioner, the complainant or the solicitor may, with the

leave of the committee, adduce evidence to rebut the evidence adduced by the practitioner,

and where there is a rebuttal, the practitioner may again address the committee;

(h) the complainant or the solicitor may address the committee by way of reply to the

practitioner's case,

(i) if oral evidence, which is not evidence as to character other than that of the practitioner

has been given on the practitioner's behalf; or

(ii) with leave of the committee, where that evidence has not been given;

(i) without prejudice to paragraph (h), if the practitioner makes a submission to the committee

on a point of law any other party has a right to reply limited to that submission.

(2) Where in a case relating to conduct the practitioner does not appear, but the committee decides to

proceed with the inquiry, paragraphs (a) to (c) of subrule (1) shall apply but the rest of that subrule shall

not apply.

(3) On the conclusion of the proceedings under subrule (1) or (2), the disciplinary committee shall

consider and determine in respect of each charge which remains outstanding which of the facts alleged in

the charge have been proved to the committees' satisfaction.

(4) If under subrule (3) the committee determines, in respect of a charge,

(a) that none of the facts alleged in the charge has been proved to the committee's satisfaction,

or

(b) that the facts as proved would be insufficient to support a finding of infamous conduct in a

professional respect,

the committee shall record a finding that the practitioner is not guilty of that conduct in respect of the

matters to which that charge relates, and the chairman shall announce the finding of the committee.

FURTHER PROCEEDINGS ON PROOF OF CHARGES RELATING TO CONDUCT

14. (1) If under rule 13 (3) and (4) the disciplinary committee has determined, in respect of a charge,

that the facts, or some of the facts alleged in the charge have been proved to the committee's satisfaction,

and the committee has not on those facts recorded a finding of not guilty, the chairman of the disciplinary

committee shall invite the complainant or the solicitor, to address the committee and to adduce evidence

as to the circumstances leading up to the facts in question, and as to the character and antecedents of the

practitioner.

(2) The chairman shall then invite the practitioner, if present, to address the committee by way of

mitigation and to adduce evidence.

(3) The committee shall then consider and determine whether to postpone its findings on the facts

proved, and if the committee determines to do so, its finding shall stand postponed to a further meeting of

the committee that it shall decide; and the chairman of the disciplinary committee shall announce its

determination in the terms approved by the committee.

(4) Where the committee determines not to postpone its findings, it shall consider and determine

whether in relation to the facts proved the committee finds the practitioner to have been guilty of

infamous conduct in a professional respect; and if the committee determines that the practitioner is not

guilty, it shall record a finding to that effect, and the chairman shall announce the finding in the terms

approved by the committee.

(5) Where the committee determines that the practitioner has been guilty of infamous conduct in a

professional respect, it shall further consider and determine whether the committee should direct the

removal of the practitioner's name from the register, or the application of any other disciplinary measures

specified in section 43 (2) of the Act and the chairman shall announce the committee's determination in

the terms approved by the committee.

(6) Despite anything in subrules (3), (4) and (5), if the committee thinks fit in any case, the following

provisions shall have effect in place of the provisions set out in those subrules;

(a) the committee shall first consider and determine whether in relation to the facts proved the

committee finds the practitioner to have been guilty of infamous conduct in a professional

respect;

(b) where it determines that the practitioner has not been guilty, it shall record a finding to that

effect, and the chairman shall announce the finding in the terms approved by the committee;

(c) where the committee determines that the practitioner has been guilty in relation to the facts

proved, it shall next consider and determine whether to postpone its judgment, and if it

determines to do so its judgment shall stand postponed to a further meeting of the committee

to be decided and the chairman shall announce the committee's determination in the terms

approved by the committee.

(7) Where the committee determines not to postpone its judgment, it shall forthwith consider and

determine whether the committee should direct the removal of the practitioner's name from the register,

or the application of any of the disciplinary measures specified in section 43 (2) of the Act, and the

chairman shall announce the committee's determination in the terms approved by the committee.

CASES RELATING BOTH TO CONVICTION AND CONDUCT

15. Where, in the case of an inquiry, it is alleged that the practitioner has been convicted and has been

guilty of infamous conduct in a professional respect,

(a) the committee shall first proceed with every charge that the practitioner has been convicted

of until it has completed the proceedings required by rule 11;

(b) the committee shall then proceed with every charge that the practitioner has been guilty of,

until it has completed the proceedings required by rule 13;

(c) the committee shall then take the proceedings, required by rule 12 or, by rule 14, or, if in the

circumstances of the case proceedings are required by those rules, the committee shall take

the proceedings under both sets concurrently.

PROCEDURE AFTER JUDGMENT OR FINDING POSTPONED

16. (1) Where under any of these Rules the Judgment or finding of the disciplinary committee stands

postponed,

(a) the solicitor shall, not later than six weeks before the day fixed for the resumption of the

proceedings, send to the practitioner a notice, which shall

(i) specify the day, time and place at which the proceedings are to be resumed and invite

the practitioner to appear at that place;

(ii) unless the committee has otherwise directed or the chairman of the disciplinary committee otherwise directs, invite the practitioner to furnish the registrar with the names and addresses or professional colleagues and any other persons of standing to

whom the Council will be able to apply for information as to their knowledge of the character or habits and the conduct since the time of the original inquiry, of the practitioner;

(iii) invite the practitioner to send to the solicitor a statement, whether made by the practitioner or not relating to the practitioner's conduct since the hearing of the case or

sorting out the material facts which have arisen since that hearing;

(b) the notice shall be sent to the practitioner by post in a registered letter addressed to the

practitioner at the address on the register or at the last known address, if that address differs

from the address on the register and it appears to the solicitor that that service will be more

effective;

(c) a copy of the notice and of a statement sent in accordance with the provisions of subrule (1)

(a) (iii) of this rule shall be sent to the complainant, if a party to the proceedings before the

committee, and the complainant may in turn, send to the solicitor a statement whether made

by the complainant or not, concerning a matter raised by the practitioner.

(2) Subject to subrule (4), at the meeting at which the proceedings are resumed, the chairman of the

disciplinary committee shall first invite the solicitor to recall, for the information of the committee, the

position in which the case stands, and the Committee may, at it thinks fit,

(a) hear any other party to the proceedings, and

(b) receive any further oral or documentary evidence in relation to the case, or to the conduct of

the practitioner since the hearing.

(3) Subrule (2) shall not be construed as preventing the receipt by the committee of evidence as to a

conviction, not being a conviction which is the subject of a charge before the committee.

(4) Where, since the original hearing, a new charge against the practitioner has been duly referred to

the committee, the committee shall first proceed with the charge so far as is provided by rules 11 or 13.

(5) In a case relating to conviction, the committee shall next consider and determine whether it should

further postpone its judgment, and paragraphs (c), (d) and (e) of rule 12 shall apply.

(6) In a case relating to conduct, the committee shall next consider and determine whether it should

further postpone its findings or judgment which stands postponed, and for which the relevant provisions

of rule 14 (2) shall apply.

(7) In a case relating to both a conviction and a conduct, the committee shall take concurrently the

proceedings required under subrules (5) and (6).

(8) In a case where new charges are before the committee, the committee shall take concurrently the

proceedings required under rule 12 or rule 14, and the proceedings required under one or more of subrules

(5) to (7) of this rule.

17. Rule 16 shall apply to the proceedings in a case in which the judgment or finding of the committee

stands further postponed.

18. Subject to the Act, the validity of any resumed proceedings shall not be called into question by

reason only

(a) that members of the committee who were present at the former meeting were not present at

the resumed meeting; or

(b) that members present at the resumed meeting were not present at the former meeting.

INQUIRIES INTO CHARGES AGAINST TWO OR MORE PRACTITIONERS

19. These Rules shall not be construed as preventing one inquiry being held into charges against two or

more practitioners, and where that inquiry is held these Rules shall apply with the necessary adaptations

and subject to the directions given by the disciplinary committee as to the order in which proceedings

shall be taken by or in relation to the several practitioners.

PART TWO

APPLICATIONS FOR RESTORATION

20. Where under section 47 of the Act a person applies for the restoration of that person's name to the

register the following provisions shall have effect:

(a) at the hearing of the application, the chairman of the disciplinary committee shall invite the

solicitor

(i) to recall the circumstances in which the applicant's name was removed from the register,

and

(ii) to address the committee and adduce evidence as to the conduct of the practitioner since

that time;

(b) the chairman shall next invite the applicant to address the committee, and to adduce evidence

as regards conduct since the name of the applicant was removed from the register;

(c) the committee may receive observations on the application from the Medical School,

University or body which granted the qualifications by virtue of which the applicant was

originally registered;

(d) the committee may afford an opportunity of being heard on the application to a person on

whose complaint the applicant's name was removed from the register;

(e) subject to this rule, the procedure of the committee in connection with the applications shall

be determined by the committee.

PART THREE

GENERAL PROCEDURE

21. The penal cases committee and the disciplinary committee may adjourn a proceedings or a meeting.

22. (1) Subject to the Third Schedule, the disciplinary committee may deliberate in camera, with or

without the legal assessor and for a sufficient reason during or after the hearing of the proceedings.

(2) Except as otherwise provided the proceedings before the committee shall take place in the

presence of parties to the proceedings who appear and shall be held in public except as provided by

subrule (3).

(3) Where in the interests of justice or for any other special reason it appears to the committee that the

public should be excluded from a proceedings or part of the proceedings, the committee may direct the

exclusion of the public; but a direction under this subrule shall not apply to the announcement in

pursuance of these Rules of a determination of the committee.

23. (1) Where a practitioner or an applicant has supplied to the disciplinary committee or to the registrar

on the committee's behalf the name of a person to whom reference may be made confidentially as to

character or conduct, the committee may consider the information received from that person in

consequence of the reference without disclosing the same to the practitioner of applicant.

(2) The committee may receive as evidence oral, documentary or any other matter after consultation

with the legal assessor.

(3) Where a matter is tendered as evidence which would not be admissible if the proceedings were

criminal proceedings in the republic, the committee shall not receive it unless, after consultation with the

legal assessor, the committee is satisfied that its duty of making due inquiry into the case before it makes

the reception of the tendered matter desirable.

(4) The committee may cause a person to be called as a witness in proceedings before it with or

without the consent of the parties.

(5) Questions may be put to a witness by the committee through the chairman of the disciplinary

committee or by the legal assessor with the leave of the chairman.

VOTING

24. The following provisions shall have effect as to the taking of the votes of the disciplinary committee

on a question to be determined by it:

(a) the Chairman of the committee shall call on the members present to signify their votes by

raising their hands, and shall declare that the question appears to the chairman to have been

determined in the affirmative or in the negative;

(b) where the result declared by the chairman is challenged by a member, the chairman shall

(i) announce the chairman's vote, and

(ii) announce the number of members of the committee who have voted each way and the

result of the vote;

(c) where the votes are equal, the question shall be deemed to have been resolved in favour of

the practitioner, respondent, or applicant;

(d) for the purpose of paragraph (c) a decision to postpone a judgment or postpone a finding

shall be taken to be in favour of a person unless that person has indicated opposition to the

postponement to the Committee.

SUPPLEMENTARY AND GENERAL

25. In this Schedule the expression "solicitor" means a lawyer, other than a legal assessor, appointed by

the Council for the purposes of this Act or, where a person has not been so appointed, a law officer

appointed by the Attorney-General with the consent of the Council.

26. (1) A body corporate or an unincorporated body may appear by its officer duly appointed for the

purpose or by its lawyer.

(2) An individual may appear in person or by a lawyer or by an officer or member of an organisation

of which that individual is a member, or by a family member.

27. Without prejudice to the requirements of these Rules as to the service of documents by registered

post, a notice authorised or required by these Rules may be sent by post.

28. (1) A shorthand-writer shall be appointed by the committee to take shorthand notes of its

proceedings.

(2) A party to the proceedings of the committee shall, on application to the solicitor and on payment

of the proper charges, be furnished with a transcript of the shorthand notes of a part of the proceedings at

which the parties were entitled to be present.

(3) Where practicable, a tape recorder or any other suitable device shall be used to make a record of

the proceedings in addition to the shorthand notes referred to in subrule (1).

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A copy of the Rules is sent herewith for your information. A copy of the Rules is sent herewith for your information.

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Solicitor to the Medical and Dental Council

Third Schedule

RULES RELATING TO LEGAL ASSESSOR

[Section 45 (3)]

1. The legal assessor shall be present at the proceedings before the disciplinary committee, and shall

advise the committee on questions of law which are referred to the legal assessor by the committee.

2. The legal assessor shall inform the disciplinary committee forthwith of an irregularity in the conduct

of the proceedings before the committee which may come to the legal assessor's knowledge and shall

advise the committee where it appears that, but for that advice, there is a possibility of a mistake of law

being made.

3. (1) The advice of the legal assessor shall be tendered to the disciplinary committee in the presence of

every party, or person representing a party, to the proceedings who is present at the proceedings.

(2) Where a question referred by the committee to the legal assessor after the committee has begun to

deliberate as to its findings, and the committee considers that it would be prejudicial to the performance

of its functions for the advice to be tendered in the presence of the parties or their representatives, the

advice practicable tendered in their absence, but the legal assessor shall, as soon as may be, personally

inform them of the question which had been put by the committee and of the advice tendered and the

advice shall subsequently be put in writing and a copy given to every the party or representative.

4. Where the disciplinary committee does not accept the advice of the legal assessor, a record shall be

made of the question referred to the legal assessor, of the advice given and of the refusal to accept it

together with the reasons for the refusal, and a copy of the record shall be given to every party or person

representing a party, to the proceedings present at the proceedings.

5. Copies of written advice, made for the purpose of rules 3 and 4, shall be available on application to

every party to the proceedings who was not present at the proceedings.

Fourth Schedule

RULES RELATING TO APPEALS PROCEDURE

[Section 46 (3)]

1. A person who desires to appeal to the Court of Appeal under section 46 (3) of the Act shall, within

twenty-eight days of the service upon that person of a notification under section 46 of the Act, enter an

appearance in the registry of the Court of Appeal and at the same time lodge a notice of appeal and serve

a copy of that notice on the Medical and Dental Council.

2. The notice of appeal shall recite succinctly the principal steps in the proceedings leading up to the

appeal but shall not contain argumentative matter or deal with the merits of the case.

3. On receipt of a copy of the notice of appeal, the Council shall

(a) with convenient speed deliver to the appellant a certified a copy of the record of the

proceedings before the disciplinary committee, and

(b) notify the registrar of the Court of Appeal of the date of the delivery, and

(c) if it desires to be heard as respondent before the Court of Appeal, enter an appearance

forthwith in the registry of the Court of Appeal and give notice of the appearance to the

appellant.

4. Within twenty-one days of the receipt by the appellant of the certified record referred to in rule 3, the

appellant shall lodge in the registry of the Court of Appeal the certified record together with eight copies

of the certified record and shall also transmit three copies to the Medical and Dental Council.

5. The copy and the copies of cases shall be typewritten or, if the appellant or council so desire, printed

in the form known as demy quarto.

6. Within twenty-eight days from the lodging in the registry of the Court of Appeal of the certified

record as provided by rule 5, there shall be lodged in the registry eight copies of the appellant's case of

appeal signed by at least one of the lawyers who attends the hearing of the appeal or by the party

personally where that party conducts the appeal in person.

7. Within twenty-eight days of the transmission to the Council of the three copies of the certified record

as provided by rule 4, the Council shall likewise lodge eight copies of its case in the appeal signed by at

least one of the lawyers who attends at the hearing of the appeal.

8. The cases shall consist of paragraphs numbered consecutively and shall state, as concisely as possible,

the circumstances out of which the appeal arises, the contentions to be urged by the parties lodging the

appeal respectively, and the reasons of the appeal.

9. The appeal shall be set down as soon as the cases on both sides are lodged and the parties shall

exchange cases by delivering each to the other three copies of their respective cases.

10. Where the Council does not enter an appearance or does not lodge its case within the period

prescribed by rule 7, or within a further period allowed by the registrar, the appeal shall be set down for

hearing ex parte provided that the appellant's case has already been lodged.

11. (1) Where an appellant who has lodged a notice of appeal desires to withdraw the appeal, the

appellant shall lodge a notice of withdrawal at the Registry.

(2) On the hearing of the notice of withdrawal the Council may apply to the Court of Appeal for its

costs.

12. Where the appellant, who has lodged a notice of appeal, fails to take a further step in the prosecution

of the appeal within the period prescribed by these Rules, or within a further period allowed by the

registrar, the Council may lodge a notice at the registry for the appeal to be dismissed for

non-prosecution, and the Court of Appeal may dismiss the appeal for non-prosecution.

13. Subject to the Rules contained in this Schedule, the rules applying to appeals to the Court of Appeal

shall also apply with the necessary modifications to appeals to the Court of Appeal under the Act.

Endnotes

1 (Popup - Footnote)

1. This Act was issued as the Medical and Dental Decree, 1972 (N.R.C.D. 91) made on the 31st day of

July, 1972 and notified in the Gazette on 4th August, 1972.

2 (Popup - Footnote)

2.

Substituted by paragraph (a) of the Medical and Dental (Amendment) Decree, 1973 (N.R.C.D. 207).

3 (Popup - Footnote)

3. Amended by the Medical and Dental (Amendment) Decree, 1979 (A.F.R.C.D. 28) which restored

subsection (4).

4 (Popup - Footnote)

4. Inserted by paragraph (b) of the Medical and Dental (Amendment) Decree, 1973 (N.R.C.D. 207) as a proviso

to subsection (4).

5 (Popup - Footnote)

5. Inserted by paragraph (c) of the Medical and Dental (Amendment) Decree, 1973 (N.R.C.D. 207) by way of a

proviso.

6 (Popup - Footnote)

6.

Substituted by paragraph (d) of the Medical and Dental (Amendment) Decree, 1973 (N.R.C.D. 207).

7 (Popup - Footnote)

7.

The section provided that,

“(1) The Medical and Dental Act, 1959 (No. 36) as subsequently amended is hereby repealed.

(2)

Every licence or certificate granted under the Medical and Dental Act, 1959 and in force immediately

before the commencement of this Act shall continue in force as if granted under the corresponding

provisions of this Act.

(3)

Every register kept under the Medical and Dental Act, 1959 shall be deemed to be a register kept

under the corresponding provisions of this Act:

Provided that the Council shall, as soon as practicable, cause all particulars of registrations in

force immediately before the commencement of this Act to be transferred to the appropriate new

register to be kept under this Act.

(4) Subject to the provisions of the Act, the Medical and Dental Board in existence immediately before

the commencement of this Act shall be deemed to be the Medical and Dental Council referred to in this Act.”

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