

(Legislative Supplement No. 54)

LEGAL NOTICE NO. 128

THE MEDICAL PRACTITIONERS AND DENTISTS BOARD ACT

(Cap. 253)

IN EXERCISE of powers conferred by section 23 of the Medical Practitioners and Dentists Act, the Cabinet Secretary for Health, after consultation with the Medical Practitioners and Dentists Board, makes the following Rules:—

THE MEDICAL PRACTITIONERS AND DENTISTS (FITNESS TO PRACTICE) RULES, 2016

1. These Rules may be cited as the Medical Practitioners and Dentists (Fitness to Practice) Rules, 2016.

Citation.

2. In these Rules, unless the context otherwise requires—

Interpretation.

“Board” has the meaning assigned to it under section 2 of the Act;

“Committee” means the Fitness to Practice Committee established under rule 3;

“fitness to practise” in relation to a medical or dental practitioner or student, means a person having the necessary skills, knowledge and character to practise safely and effectively and includes acts that may affect public protection or confidence in the profession;

“impairment” means a mental, social, or physical condition which affects or has the potential to affect competence, attitude, judgement or performance of professional acts by a registered practitioner or a medical or dental student and may include —

- (a) serious or persistent failure to meet institutional or professional minimum standards of practise;
- (b) reckless or deliberate acts that potentially affect or harm self, colleagues and patients, relatives of patients and others;
- (c) concealing professional errors or impeding investigations into the same;
- (d) sexual misconduct or indecency;
- (e) improper relationships with service users or colleagues;
- (f) failure to respect the autonomy of service users;
- (g) violence or threatening behaviour;
- (h) dishonesty, fraud or an abuse of trust;
- (i) exploitation of a vulnerable person;
- (j) substance abuse or misuse;

- (k) health problems which the practitioner or student has not addressed, and which may affect safety or confidence of the service users;
- (l) any other equally serious activities, behaviours, utterances which undermine public confidence in the medical profession;

“intervention” means any medical, social or other process, procedure or activity conducted with a view to correcting an impairment in a medical or dental practitioner or student;

“practitioner” means a person registered under the Act as a medical practitioner or dentist; and

“student” means a person undergoing medical or dental training in an institution registered under the Act.

3. There is established a committee to be known as the Fitness to Practice Committee.

Establishment of the Committee.

(2) The Committee shall comprise of—

- (a) the Vice-Chairperson of the Board, who shall Chair the Committee;
- (b) three members of the Board;
- (c) a representative appointed by the Kenya Medical Association;
- (d) a representative appointed by the Kenya Dental Association; and
- (e) the advocate of the Board who shall be the legal advisor;
- (f) four other members co-opted by the Committee and of whom—
 - (i) one shall be a preferred expert or professional representative of the practitioner or student appearing before the Committee;
 - (ii) one shall be a representative nominated by the relevant specialist association;
 - (iii) one shall be a professional expert as may be nominated by the Board, and
 - (iv) one shall be a person whose expertise is relevant to the matter as the Board may determine.

(3) In the absence of the Vice-Chairperson of the Board the Committee shall appoint a Chairperson from amongst its members who are members of the Board.

(4) The quorum at the meeting of the Committee shall be six members.

(5) Subject to these Rules, the Committee may regulate its own procedures.

4. The Committee shall—

- (a) receive reports of alleged impairment of practitioners and students from themselves, institutions, practitioners, patients, the Board, the general public or from any other source;

Functions of the committee.

- (b) undertake an inquiry into reports of alleged impairment of practitioners and students;
- (c) recommend to the Board appropriate interventions, where applicable, and
- (d) recommend to the Board the conditions for fitness to practise from time to time.

5. (1) Any person making a report regarding the fitness to practice of a practitioner or student shall complete the prescribed Form provided for in the Schedule and submit it to the Board.

Procedure relating to impairment

(2) All reports received by the Committee shall be discussed in a sitting of the Committee.

(3) In the event the Committee finds that the report merits further inquiry it shall record as such and thereafter cause the concerned practitioner or student to be assessed.

(4) Upon assessment under paragraph (3), the Committee may make any of the following recommendations to the Board—

- (a) that the practitioner or student is fit to practise;
- (b) that the practitioner or student is unfit to practise independently and requires to practise under supervision while undergoing an intervention for a prescribed period of time;
- (c) that the practitioner or student is temporarily unfit to practise and should have their license or privileges temporarily withdrawn for the duration of an intervention to facilitate their return to fitness; or
- (d) that the practitioner or student is permanently unfit to practise and should have their practise license or privileges permanently withdrawn and undergo any other interventions as may be deemed necessary.

6. Any person aggrieved by a decision of the Committee may, within 14 days of that decision, appeal against the decision to the Board.

Appeal.

7. A practitioner or student who fails to comply with the requirements or any directive issued under these Rules shall have their license withdrawn by the Board until such a time as they shall be deemed to have complied.

Effects of failure to comply with the Rules.

8. A practitioner or student whose license or privileges have been temporarily withdrawn shall upon satisfactory completion of the prescribed intervention, apply for restoration of their license or privileges and the application shall be considered alongside a confidential report submitted to the Board indicating fitness to practise or otherwise.

Application for restoration of license.

SCHEDULE

(r.5(1))

FORM

THE MEDICAL PRACTITIONERS AND DENTISTS ACT

(Cap. 253)

**MEDICAL PRACTITIONERS AND DENTISTS, FITNESS TO PRACTISE
REPORTING FORM**

- 1. Date.....
- 2. Name of practitioner/student subject to report.....
- 3. Physical Address of practitioner/student subject to report.....
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- 4. Nature of alleged impairment
.....
.....
- Any Other Relevant Information
(may attach additional documents if available)
- 5. Details of person reporting *(optional)*
Name.....Signature.....
P O BoxCode.....City.....
Tel. No.....email

Made on the 22nd July, 2016.

CLEOPA K. MAILU,
Cabinet Secretary for Health.