

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 1 OF 1982

**The Medical and Allied Professions Act, 1977**  
(Act No. 22 of 1977)

**The Medical and Allied Professions**  
**(Disciplinary Proceedings) Rules, 1982**

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IN EXERCISE of the powers contained in section *fifty-nine* of the Medical and Allied Professions Act, 1977, the following Rules are hereby made:

## PART I

### PRELIMINARY

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| Title                                       | 1. These Rules may be cited as the Medical and Allied Professions (Disciplinary Proceedings) Rules, 1982.   |
| Inter-pretation                             | 2. In these Rules, unless the context otherwise requires—<br>“complainant” means a body or person by whom a complaint has been made to the Council;<br>“practitioner” means a registered person, and references to the practitioner, in relation to any complaint, information or proceedings, are references to the practitioner whose conduct or condition has been called into question. |
| Reference of matters to Executive Committee | 3. Except as otherwise expressly stated, before any matters are referred to the Disciplinary Committee they shall in such manner as is provided by these Rules, be brought before and investigated by the Executive Committee.  |

## PART II

### PROCEEDINGS RELATING TO INFAMOUS CONDUCT IN A PROFESSIONAL RESPECT

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| Functions of Chairman in relation to complaints or information | 4. (1) Where a complaint in writing, or information in writing, is received by the registrar from any body or person, and it appears to him that a question arises whether conduct of a practitioner constitutes infamous conduct in a professional respect, the registrar shall submit the matter to the Chairman.<br>(2) Before the matter proceeds further, the Chairman may, if he thinks fit, require one or more statutory declarations to be furnished to his satisfaction in support of the complaint or information, and every such statutory declaration shall state the address and description of the declarant and the grounds for his belief in the truth of any fact declared which is within his personal knowledge.<br>(3) Unless it appears to the Chairman that the matter need not proceed further, the Chairman shall direct the registrar to write to the practitioner—<br>(a) notifying him 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; |
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- (b) forwarding a copy of any statutory declaration furnished under sub-rule (2);
- (c) informing the practitioner of the date of the next meeting of the Executive Committee; and
- (d) inviting the practitioner to submit to the Council any explanation which he may have to offer.

(4) Subject to the foregoing provisions of this rule, the Chairman may direct the registrar to refer the case to the Executive Committee, together with any statutory declaration or explanation furnished under sub-rules (2) and (3).

5. (1) Where a case has been referred to the Executive Committee, that committee shall, having regard to any statutory declaration or explanation furnished as aforesaid, consider the case and, subject to the provisions of this rule, determine either—

- (a) that no inquiry shall be held in the case by the Disciplinary Committee; or
- (b) that the matter in question shall, in whole or in part, be referred to the Disciplinary Committee for inquiry.

Functions of Executive Committee in relation to complaint or information

(2) Where the Executive Committee determines that no inquiry shall be held in a case by the Disciplinary Committee, the registrar shall inform the complainant, if any, and the practitioner of the decision of the Executive Committee in such terms as the Executive Committee may direct.

(3) Before coming to a determination, the Executive Committee may, if it thinks fit, cause to be made such further investigations, or obtain such advice or assistance from the solicitor or any legal practitioner instructed by it, as it may consider necessary.

(4) Where the Executive Committee is of opinion that such further investigations as aforesaid are desirable, or where at the time when the Executive Committee is considering the case no explanation has yet been received from the practitioner, the Executive Committee may, if it thinks fit, make a provisional determination that the matter in question shall in whole or in part be referred to the Disciplinary Committee as mentioned in paragraph (b) of sub-rule (1), and where it makes such a determination—

- (a) the Chairman may, after causing the members of the Executive Committee to be informed of the result of the further investigations or to be supplied with copies of any explanation subsequently furnished by the practitioner, and after consultation with the

members of the Executive Committee and in accordance with the opinion of the majority of them, direct either that no inquiry shall be held or that the matter shall be referred as aforesaid;

- (b) if the Chairman directs that no inquiry shall be held, the registrar shall notify the members of the Executive Committee and shall inform the complainant, if any, and the practitioner in such terms as the Chairman may direct.

Notice of inquiry

6. (1) As soon as may be after a case has been referred to the Disciplinary Committee for inquiry, the registrar shall send to the practitioner a notice of inquiry which shall—

- (a) specify, in the form of a charge or charges, the matters into which the inquiry is to be held; and
- (b) state the date, 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 any date earlier than twenty-eight days after the date of the notice of inquiry.

(3) A notice of inquiry shall be in the form prescribed in the First Schedule, with such variations as circumstances may require.

(4) A notice of inquiry shall be delivered to the practitioner or sent to him by post in a registered letter addressed to him at his address on the register or at his last known address if that address differs from his address on the register and it appears to the registrar that such service will be more effective.

(5) There shall be sent with any notice of inquiry a copy of these Rules.

(6) In any case where there is a complainant, a copy of the notice of inquiry shall be sent to him.

Access to documents

7. (1) Without prejudice to the provisions of sub-rule (3) of rule 4, the registrar shall on the request of any party to any inquiry send to him copies of any statutory declaration, explanation, answer, admission or other statement or communication sent to the Council by a party to the inquiry:

Provided that nothing in this sub-rule shall compel the registrar to produce copies of any written advice sent to the Council which would be privileged from discovery in any legal proceedings to which the Council was a party.

(2) Any party to any inquiry may at any time give to any other party notice to produce any document alleged to be in the possession of that party.

8. (1) The Chairman may, if he thinks fit, postpone the holding of an inquiry to such later date as he may determine.

Postponement of inquiry

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

- (a) the registrar shall as soon as may be give notice of the postponement to every party; and
- (b) on the determination of the date on which the inquiry is to be held, the registrar shall give notice thereof to every party.

9. (1) Where, after a complaint or information has been referred to the Disciplinary Committee for inquiry, it appears to the Chairman that the inquiry should not be held, he may, if he thinks fit, after consultation with the members of the Executive Committee and in accordance with the opinion 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 no notice of inquiry has been sent, rule 6 shall not have effect:

Cancellation of inquiry

Provided that in any case where there is a complainant the Chairman shall not direct that an inquiry shall not be held except after communicating or endeavouring to communicate with the complainant.

(2) As soon as may be after giving such direction referred to in sub-rule (1), the registrar shall give notice thereof to the complainant, if any, and to the practitioner.

10. (1) Where before the hearing it appears to the Chairman 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 the Disciplinary Committee, as the case may be, shall give such directions for the amendment of the notice or charge as he or it may think necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made without injustice.

Amendment of notice of inquiry or charge

(2) Where in the opinion of the Chairman or the Disciplinary Committee it is expedient, in consequence of the exercise by him or it of the powers conferred by sub-rule (1), that the inquiry should be postponed or adjourned, the Chairman or the Disciplinary Committee shall give such directions in that behalf as appear necessary.

(3) The registrar shall as soon as may be give notice in writing to the complainant, if any, and to the practitioner of any exercise by the Chairman of his powers under this rule.

11. (1) Where the practitioner does not appear, the Chairman shall call upon the registrar to satisfy the Disciplinary Committee that the notice of inquiry has been received by the practitioner, and where it does not appear to have been so received, the Disciplinary Committee may nevertheless proceed

Opening of inquiry

with the inquiry, if it thinks fit, on being satisfied that all reasonable efforts have been made to serve the notice of inquiry on the practitioner.

(2) Where the practitioner appears or, in cases where he does not appear and the Disciplinary Committee proceeds with the inquiry, the charge or charges shall first be read to the Disciplinary Committee.

(3) After the reading of the charge or charges the practitioner may, if he so desires, object to the charge or to any part thereof on a point of law, and upon any objection any other party may reply thereto.

(4) If any objection is upheld, no further proceedings shall be taken by the Disciplinary Committee in relation to the charge, or that part of the charge, to which the objection relates.

Proof of  
charges

12. (1) In a case where the practitioner appears, the following order of proceedings shall be observed as respects proof of the charge or charges, that is to say—

(a) if a complainant appears, he shall open the case against the practitioner or subject to any directions given by the Chairman or the Disciplinary Committee, if no complainant appears, the registrar shall present the facts on which the complaint or information is based;

(b) subject to the provision of paragraph (a), the complainant shall adduce evidence of the facts alleged in the charge or charges, or of such of those facts as he is prepared to prove;

(c) if as respects any charge no evidence is adduced, the Disciplinary Committee shall record that fact 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 him, the practitioner, if he so desires, may make either or both of the following submissions as respects any charge as to which evidence has been adduced, namely—

(i) that no sufficient evidence has been adduced upon which the Disciplinary Committee could find that the facts alleged in the charge have been proved;

(ii) that the facts alleged in the charge are not such as to constitute infamous conduct in a professional respect;

and where such a submission is made, any other party may reply thereto;

- (e) if a submission is made under paragraph (d), the Disciplinary Committee shall consider and determine whether the submission should be upheld, and if the Disciplinary Committee determines to uphold such a submission as respects any charge, it 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) as respects any charge to which evidence has been adduced, the practitioner may adduce evidence in answer to the charge and, whether he adduces evidence or not, may address the Disciplinary Committee;
- (g) at the close of the case for the practitioner, the complainant or the registrar, as the case may be, may, with the leave of the Disciplinary Committee, adduce evidence to rebut any evidence adduced by the practitioner; and if he does so, the practitioner may again address the Disciplinary Committee;
- (h) the complainant or the registrar, as the case may be, may address the Disciplinary Committee by way of reply to the practitioner's case—
- (i) if oral evidence, not being evidence as to character, other than that of the practitioner himself has been given on the practitioner's behalf; or
- (ii) with the leave of the Disciplinary Committee, where no such evidence has been given;
- (i) without prejudice to the provisions of paragraph (h), if the practitioner has made a submission to the Disciplinary Committee on a point of law, any other party shall have a right of reply limited to that submission.

(2) In a case where the practitioner does not appear but the Disciplinary Committee has decided to proceed with the inquiry, only paragraphs (a) to (c) of sub-rule (1) shall apply.

13. (1) At the conclusion of the proceedings under rule 12, the Disciplinary Committee shall consider and determine as respects each charge which remains outstanding which, if any, of the facts alleged in the charge have been proved to its satisfaction.

(2) If under sub-rule (1) the Disciplinary Committee determines; as respects any charge, either that none of the facts alleged in the charge has been proved to its satisfaction, or that such facts as have been so proved would be insufficient to support a finding of infamous conduct in any professional respect, the Disciplinary Committee shall record a finding that

Powers of  
Disciplinary  
Committee

the practitioner is not guilty of such conduct in respect of the matters to which that charge relates, and the Chairman shall announce the finding of the Disciplinary Committee.

(3) If under the foregoing provisions of this rule the Disciplinary Committee has determined, as respects any charge, that the facts, or some of the facts, alleged in the charge have been proved to its satisfaction, and the Disciplinary Committee has not on those facts recorded a finding of not guilty, the Chairman shall invite the complainant or the solicitor, as the case may be, to address the Disciplinary 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.

(4) The Chairman shall then invite the practitioner, if he appears, to address the Disciplinary Committee by way of mitigation and to adduce evidence as aforesaid.

(5) The Disciplinary Committee shall then consider and determine whether in relation to the facts proved as aforesaid it finds the practitioner to have been guilty of infamous conduct in a professional respect, and if it determines that he has not been so guilty, it shall record a finding to that effect, and the Chairman shall announce the finding in such terms as the Disciplinary Committee may approve.

(6) If the Disciplinary Committee determines that the practitioner has been guilty of infamous conduct in a professional respect, it shall further consider and determine whether to impose any penalty under subsection (1) of section *fifty-five* of the Act, and the Chairman shall announce its determination in such terms as the Disciplinary Committee may approve.

14. (1) Where it appears to the registrar, whether in consequence of a complaint in writing sent to the Council by any body or person, or in consequence of any other information coming to the notice of the registrar, that a question arises whether a practitioner to whom this rule applies has, during the period of any postponement under paragraph (c) of subsection (1) of section *fifty-five* of the Act, not complied with any conditions imposed thereunder, the registrar shall submit the matter to the Chairman.

(2) Unless it appears to the Chairman that the matter need not proceed further—

(a) the Chairman shall direct the registrar to refer the matter to the Disciplinary Committee; and

(b) the registrar shall send to the practitioner, not later than twenty-eight days before the date fixed for the resumption of the proceedings, a notice which shall—

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

- (ii) unless the Chairman otherwise directs, invite the practitioner to furnish the registrar with the names and addresses of professional colleagues and other persons of standing to whom the Council will be able to apply for information as to their knowledge of his character or habits and his conduct since the time of the original inquiry; and
- (iii) invite the practitioner to send to the registrar any statement or statutory declaration, whether made by the practitioner or not, relating to his conduct since the hearing of his case or setting out any material facts which have arisen since that hearing.

(3) The said notice shall be delivered to the practitioner or sent to him by post in a registered letter addressed to him at his address on the register or at his last known address if that address differs from his address on the register and it appears to the registrar that such service will be more effective.

(4) A copy of the notice and of any statement or statutory declaration sent in accordance with the provisions of this rule shall be sent to the complainant, if any, and he may in turn, if he so desires, send to the registrar a statement or statutory declaration, whether made by himself or not, concerning any matter raised by the practitioner.

(5) At the meeting at which the proceedings are resumed, the Chairman shall first invite the registrar to recall, for the information of the Disciplinary Committee, the circumstances in which the penalty mentioned in paragraph (c) of subsection (1) of section *fifty-five* of the Act was imposed on the practitioner and thereafter the Disciplinary Committee may—

- (a) hear any other party to the proceedings; and
- (b) receive such further oral or documentary evidence in relation to the conduct of the practitioner since the previous hearing as it thinks fit.

(6) The validity of any resumed proceedings of the Disciplinary Committee under this rule shall not be called into question by reason only that the Disciplinary Committee is constituted in a different manner to that in which it was constituted at the previous hearing.

15. Nothing in this Part shall be construed as preventing one inquiry being held into charges against two or more practitioners and where such an inquiry is held, the foregoing Rules shall apply with the necessary adaptations and subject to any directions given by the Disciplinary Committee as to the order in which proceedings shall be taken under any of these Rules by or in relation to the several practitioners.

Inquiries  
into  
charges  
against  
two or more  
practitioners

## PART III

PROCEEDINGS RELATING TO MENTAL OR  
PHYSICAL DISABLEMENT

Functions  
of  
Chairman  
in relation  
to  
complaints  
or  
information

16. (1) Where it appears to the registrar (whether in consequence of a complaint in writing sent to the Council by any body or person, or in consequence of any other information coming to the notice of the registrar) that a question arises whether a practitioner has become mentally or physically disabled to the extent that the continued practising by him of his profession is contrary to the public welfare the registrar shall submit the matter to the Chairman.

(2) The Chairman may, upon the submission of the matter to him by the registrar, direct the registrar to write to the practitioner—

- (i) notifying him of the receipt of the complaint or information, and indicating the matters which appear to raise a question whether the practitioner has become mentally or physically disabled to the extent that the continued practising by him of his profession is contrary to the public welfare;
- (ii) informing him of the date of the next meeting of the Executive Committee; and
- (iii) inviting him to submit to the Council any observations which he may wish to offer.

(3) Subject to the provisions of sub-rule (2), the Chairman may direct the registrar to refer the case to the Executive Committee, together with any observations then furnished by the practitioner.

Functions  
of  
Executive  
Committee  
in relation  
to  
complaints  
or  
information

17. (1) Where under rule 16 a case has been referred to the Executive Committee, the Executive Committee shall, having regard to such observations as aforesaid, determine, subject to the provisions of this rule, either—

- (a) that no inquiry shall be held in the case by the Disciplinary Committee; or
- (b) that the case shall be referred to the Disciplinary Committee for inquiry.

(2) Where the Executive Committee determines that no inquiry shall be held, the registrar shall inform the complainant, if any, and the practitioner of the decision of the Executive Committee in such terms as the Executive Committee may direct.

(3) The provisions of sub-rules (3) and (4) of rule 5 shall apply to proceedings under this rule.

18. (1) As soon as may be after a case has been referred to the Disciplinary Committee for inquiry under the foregoing provisions of this Part, the registrar shall send to the practitioner a notice of inquiry which shall—

Notice of  
inquiry

(a) specify the matters 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 any date earlier than twenty-eight days after the date of the notice of inquiry.

(3) A notice of inquiry shall be in such form as the Chairman may determine to be appropriate to the circumstances of the case.

(4) A notice of inquiry shall be delivered to the practitioner or sent to him by post in a registered letter addressed to him at his address on the register or at his last known address if that address differs from his address on the register and it appears to the registrar that such service will be more effective.

(5) There shall be sent with any notice of inquiry a copy of these Rules.

(6) In any case where there is a complainant, a copy of the notice of inquiry shall be sent to him.

19. (1) Rules 8 and 9 shall apply for the purpose of this Part, with the substitution, for the reference in rule 9 to rule 6, of a reference to rule 19.

Application  
of rules 8  
and 9

(2) Where there is a complainant, the registrar shall, on his request, send to him copies of any observations or other communication sent to the Council by the practitioner.

20. (1) Where the practitioner does not appear, the Chairman shall call upon the registrar to satisfy the Disciplinary Committee that the notice of inquiry has been received, the Disciplinary Committee may nevertheless proceed with the inquiry, if it thinks fit, on being satisfied that all reasonable efforts have been made to serve the notice of inquiry on the practitioner.

Proceedings  
at inquiry

(2) Where the practitioner appears or, in a case where he does not appear and the Disciplinary Committee proceeds with the inquiry, the following order of proceedings shall be observed—

(a) the complainant or, if no complainant appears, the registrar shall present the facts of the case and adduce evidence;

- (b) the practitioner, if he appears, may then adduce evidence and, whether he adduces evidence or not, may address the Disciplinary Committee;
- (c) the complainant or the registrar, as the case may be, may address the Disciplinary Committee by way of reply to the respondent's case.

Determin-  
ation by  
Disciplinary  
Committee

21. (1) At the conclusion of the proceedings under rule 20, the Disciplinary Committee shall consider and determine whether it has been proved to its satisfaction that the practitioner has become mentally or physically disabled to the extent that the continued practising by him of his profession is contrary to the public welfare, and if it determines that it has not been so proved, it shall record a finding to that effect, and the Chairman shall announce the finding in such terms as the Disciplinary Committee may approve.

(2) If the Disciplinary Committee determines that it has been proved to its satisfaction that the practitioner has become mentally or physically disabled to the extent that the continued practising by him of his profession is contrary to the public welfare, the Disciplinary Committee shall direct the erasure of his name from the register as required by subsection (2) of section *fifty-five* of the Act and shall further consider and determine whether to make any order relating to costs under that subsection and the Chairman shall announce its determination in such terms as the Disciplinary Committee may approve.

## PART IV

### PROCEEDINGS RELATING TO FRAUDULENT AND INCORRECT ENTRIES IN A REGISTER

Functions  
of  
Chairman  
in relation to  
complaints  
or  
information

22. (1) Where it appears to the registrar (whether in consequence of a complaint in writing sent to the Council by any body or person, or in consequence of any other information coming to the notice of the registrar) that a question arises whether an entry in a register has been fraudulently or incorrectly made, the registrar shall submit the matter to the Chairman who shall, unless it appears to him that the matter need not proceed further, determine what persons, if any, apart from the person to whom the entry purports to relate, ought to be afforded an opportunity of furnishing observations on the matter and of taking part in any subsequent inquiry.

(2) The person, if any, to whom the entry relates, and any other person or persons determined by the Chairman as aforesaid, shall then be deemed to be a respondent for the purpose of proceedings under this Part and the Chairman shall direct the registrar to notify the respondent.

23. (1) Where under rule 22 a case has been referred to the Executive Committee, the Executive Committee shall, having regard to any such observations furnished as aforesaid, determine, subject to the provisions of this rule, either—

Functions of Executive Committee in relation to complaints or information

- (a) that no inquiry shall be held in the case by the Disciplinary Committee; or
- (b) that the case shall be referred to the Disciplinary Committee for inquiry:

(2) Where the Executive Committee determines that no inquiry shall be held, the registrar shall inform the complainant, if any, and the respondent of the decision of the Executive Committee in such terms as the Executive Committee may direct.

(3) The provisions of sub-rules (3) and (4) of rule 5 shall apply to proceedings under this rule.

24. (1) As soon as may be after a case has been referred to the Disciplinary Committee under the foregoing provisions of this Part, the registrar shall send to the respondent a notice of inquiry which shall—

Notice of inquiry

- (a) specify the matters into which the inquiry is to be held;
- (b) state the date, time and place at which the inquiry is proposed to be held; and
- (c) request the respondent to state whether he intends to appear at the inquiry.

(2) Except with the agreement of the respondent, the inquiry shall not be fixed for any date earlier than twenty-eight days after the date of the notice of inquiry.

(3) A notice of inquiry shall be in such form as the Chairman may determine to be appropriate to the circumstances of the case.

(4) A notice of inquiry shall be sent by post—

- (a) to the person to whom the entry purports to relate, in a registered letter addressed to him at his address on the register or at his last known address if that address differs from his address on the register and it appears to the registrar that such service will be more effective;
- (b) to any other person who is the subject of a determination under sub-rule (1) of rule 22, in a registered letter addressed to him at his last known address.

(5) There shall be sent with any notice of inquiry a copy of these Rules.

(6) In any case where there is a complainant, a copy of the notice of inquiry shall be sent to him.

Application  
of rules 8  
and 9

25. (1) Rules 8 and 9 shall apply for the purposes of this Part, with the substitution, for the reference in rule 9 to rule 6, of a reference to rule 24.

(2) Where there is a complainant, the registrar shall, on his request, send to him copies of any observations or other communication sent to the Council by the respondent.

Proceedings  
at inquiry

26. (1) Where the respondent does not appear, the Chairman shall call upon the registrar to satisfy the Disciplinary Committee that the notice of inquiry has been received by the respondent, and where it does not appear to have been so received, the Disciplinary Committee may nevertheless proceed with the inquiry, if it thinks fit, on being satisfied that all reasonable efforts have been made to serve the notice of inquiry on the respondent.

(2) Where the respondent appears or, in a case where he does not appear and the Disciplinary Committee proceeds with the inquiry, the following order of proceedings shall be observed, that is to say—

- (a) the complainant or, if no complainant appears, the registrar shall present the facts of the case and adduce evidence;
- (b) the respondent, if he appears, may then adduce evidence and, whether he adduces evidence or not, may address the Disciplinary Committee;
- (c) the complainant or the registrar, as the case may be, may address the Disciplinary Committee by way of reply to the respondent's case.

Powers of  
Disciplinary  
Committee

27. (1) At the conclusion of the proceedings under rule 26, the Disciplinary Committee shall consider and determine whether the entry has been proved to its satisfaction to have been made incorrectly; and if it determines that it was so made, the Disciplinary Committee shall further consider and determine whether the entry was made incorrectly but not fraudulently or whether it has been proved to its satisfaction to have been made fraudulently.

(2) If the Disciplinary Committee determines that the entry has not been proved to its satisfaction to have been made incorrectly, the Chairman shall announce the determination in such terms as the Disciplinary Committee may approve.

(3) If the Disciplinary Committee determines that the entry has been proved to its satisfaction to have been made incorrectly but not fraudulently, or to have been made fraudulently, the Disciplinary Committee shall then further consider and determine whether it should direct that the entry be erased from the register, and, if it so determines, the Disciplinary

Committee shall thereupon give a direction in writing under the hand of the Chairman, that the entry, having been proved to the satisfaction of the Disciplinary Committee to have been made—

- (a) incorrectly but not fraudulently; or
- (b) fraudulently;

shall be erased from the register, and the Chairman shall announce the determination in such terms as the Disciplinary Committee may approve.

(4) If it is proved to the satisfaction of the Disciplinary Committee that the entry was made incorrectly but not fraudulently, the Disciplinary Committee may determine accordingly, notwithstanding that in the notice of inquiry the entry was alleged to have been made fraudulently but the Disciplinary Committee shall not determine that an entry was made fraudulently if it was not alleged to have been so made in the notice of inquiry.

(5) Where an inquiry relates to two or more entries, the Disciplinary Committee may proceed under the foregoing provisions of this rule in respect of those entries either separately or taken together, as the Disciplinary Committee may think fit, and where an inquiry relates to an entry specifying two or more particulars, the Disciplinary Committee may, if it thinks fit, proceed thereunder in respect of so much of the entry as specifies each of those particulars as if it were a separate entry.

28. In a case where the expression "the respondent" relates to more than one person—

- (a) the provisions of paragraph (c) of rule 22, rule 24 and sub-rule (1) of rule 26 shall all apply separately to each such person;
- (b) the provisions of sub-rule (2) of rule 26 shall apply only if all those persons appear or the Disciplinary Committee has decided under sub-rule (1) of rule 20 to proceed with the inquiry;
- (c) the provisions of paragraphs (b) and (c) of sub-rule (2) of rule 26 shall apply in relation to each of those persons as if he alone were the respondent, and where more than one of those persons appear and wish to adduce evidence or address the Disciplinary Committee, the Disciplinary Committee shall determine the order in which it shall proceed under the said paragraph (b).

Application  
of rules in  
relation to  
more  
than one  
respondent

## PART V

## PROCEEDINGS RELATING TO RESTORATION OF REGISTRATION

Proceedings  
relating to  
restoration  
of  
registration

29. (1) Subject to any directions given by the Chairman in special circumstances, an application for restoration of name to a register shall not be considered by the Disciplinary Committee unless and until it has been supported by a statutory declaration made by the applicant as nearly as possible to the form set out in Part I of the Second Schedule, and by a certificate of identity and good character given by a fully registered practitioner as nearly as possible to the form set out in Part II of the Second Schedule and the applicant may also submit certificates and other documentary evidence as to his conduct since his name was erased from the register.

(2) At the hearing of the application, the Chairman shall first invite the registrar to recall the circumstances in which the applicant's name was erased from the register, and, if he so desires, to address the Disciplinary Committee and to adduce evidence as to the conduct of the applicant since that time.

(3) The Chairman shall next invite the applicant to address the Disciplinary Committee, and, if he so desires, to adduce evidence as to his conduct since his name was erased from the register.

(4) The Disciplinary Committee may, if it thinks fit, receive observations on the application from the university or other examining authority which granted the qualification by virtue of which the applicant was originally registered.

(5) Subject to the foregoing provisions of this rule, the procedure of the Disciplinary Committee in connection with such applications shall be such as it may determine.

## PART VI

## GENERAL

Meetings of  
Disciplinary  
Committee

30. (1) A meeting of the Disciplinary Committee may be summoned at any time by direction of the Chairman and may be adjourned from time to time as the Disciplinary Committee thinks fit.

(2) Meetings of the Disciplinary Committee shall, except in so far as the Chairman may otherwise direct, be held at the offices of the Council.

Summons for  
attendance  
of witness  
and  
production  
of book,  
record,  
document,  
etc.

31. A summons requiring the attendance of a witness before the Disciplinary Committee and the production of any book, record, document or thing shall be as nearly as possible to the form set out in the Third Schedule and shall be served either—

(a) personally upon such person, any agent of such person authorised to accept service on his behalf, or any adult member of the family of such person; or

(b) by registered letter addressed to him at his last known address.

32. (1) Subject to the provisions of sub-rule (2), all proceedings before the Disciplinary Committee shall take place in the presence of all parties thereto and shall be held in public.

Admission  
and  
exclusion  
of public

(2) Where in the interests of justice or for any other special reason it appears to the Disciplinary Committee that the public should be excluded from any proceedings or part thereof, the Disciplinary Committee may direct that the public shall be so excluded, but a direction under this sub-rule shall not apply to the announcement in pursuance of any of these Rules of a determination of the Disciplinary Committee.

33. (1) Where any practitioner or applicant has supplied to the Disciplinary Committee or to the registrar on behalf of the Disciplinary Committee the name of any person to whom reference may be made confidentially as to his character or conduct, the Disciplinary Committee may consider any information received from such person in consequence of such reference without disclosing the same to the practitioner or applicant.

Evidence

(2) The Disciplinary Committee may receive as evidence any such oral, documentary or other matter as, after consultation with the legal assessor, it may think fit:

Provided that, where any matter is tendered as evidence which would not be admissible as such if the proceedings were criminal proceedings in Zambia, the Disciplinary Committee shall not receive it unless, after consultation with the legal assessor, it is satisfied that its duty of making due inquiry into the case before it makes it desirable.

(3) The Disciplinary Committee may cause any person to be called as a witness in any proceedings before it whether or not the parties consent thereto.

(4) Questions may be put to any witness in proceedings before the Disciplinary Committee by any of the parties to the proceedings, by any member of the Disciplinary Committee and by the legal assessor.

34. (1) Any party being a body corporate or an unincorporated body of persons may appear by any officer or member of it duly appointed for the purpose or by a legal practitioner.

Appearance  
of parties

(2) Any party being an individual may appear either in person or by a legal practitioner or by any officer or member of any organisation of which he is a member.

35. Without prejudice to any requirement of these Rules as to the service of documents by registered post, any notice authorised or required by these Rules may be sent by post.

Service of  
documents

Minutes of meetings

36. (1) The Disciplinary Committee shall cause minutes of its proceedings to be kept.

(2) Any party to proceedings of the Disciplinary Committee shall, on application to the registrar, be furnished by the registrar with any part of the minutes of the proceedings at which the parties were entitled to be present.

Revocation of S.I. No. 395 of 1966

37. Statutory Instrument No. 395 of 1966 is hereby repealed.

Made by the Medical Council of Zambia at Lusaka this 7th day of January, 1982.

M. MUKUNYANDELA,  
Chairman, Medical Council of Zambia

Approved by me at Lusaka this 7th day of January, 1982.

B. C. KAKOMA,  
Minister of Health

FIRST SCHEDULE  
(Rule 6 (3))

NOTICE OF INQUIRY

(Date)

Sir/Madam,

On behalf of the Medical Council of Zambia notice is hereby given to you that in consequence of (a complaint made against you to the Council) or (information received by the Council) an inquiry is to be held into the following charge (charges) against you:

That, being registered under the Medical and Allied Professions Act, 1977, on the register of fully (provisionally) (temporarily) registered.....  
.....you (set out briefly the facts alleged);  
and that in relation to the facts alleged you have been guilty of infamous conduct in a professional respect.

(Where there is more than one charge, the charges are to be numbered consecutively.)

Notice is further given to you that on..... (day of the week), the..... day of..... 19..... a meeting of the Disciplinary Committee will be held at....., at..... hours to consider the above-mentioned charge (charges) against you, and to determine whether or not it should impose any of the penalties mentioned in section 55 (1) of the Medical and Allied Professions Act, 1977.

.....  
Registrar to the Medical Council of Zambia

You are hereby invited to answer in writing the above-mentioned charge (charges) and also to appear before the Disciplinary Committee at the place and time specified above, for the purpose of answering it (them). You may appear in person or by a legal practitioner, or by any officer or member of any organisation of which you are a member. The Disciplinary Committee has power, if you do not appear, to hear and decide upon the said charge (charges) in your absence.

Any answer, admission, or other statement or communication, which you may desire to make with respect to the said charge. (charges), should be addressed to the Council.

If you desire to make any application that the inquiry should be postponed, you should send the application to the registrar as soon as may be, stating the grounds on which you desire a postponement. Any such application will be considered by the Chairman of the Council in accordance with rule 8 of the Medical and Allied Professions (Disciplinary Proceedings) Rules, 1982.

A copy of the Medical and Allied Professions (Disciplinary Proceedings) Rules, 1982, is sent herewith for your information.

.....  
*Registrar to the Medical  
Council of Zambia*

**SECOND SCHEDULE**

*(Rule 29 (1))*

**PART I**

**STATUTORY DECLARATION BY APPLICANT**

I, ....., now holding the qualifications of.....do solemnly and sincerely declare as follows:

1. THAT I am the person formerly registered on the register of fully (provisionally) (temporarily) registered..... with the name.....and with the qualifications of.....and I hereby apply for the restoration of my name to that register.

2. THAT at an inquiry hold on the.....day of ....., 19...., the Disciplinary Committee directed the erasure of my name from the said register.

3. THAT since the erasure of my name from the said register I have been residing at.....and my occupation has been.....

4. THAT it is my intention if my name is restored to the said register to .....

5. THAT the grounds of my application are.....

AND I make this solemn declaration, conscientiously believing the same to be true.

.....  
*Signature of Applicant*

Declared at.....this.....day of....., 19.....

**BEFORE ME**

.....  
*Commissioner for Oaths*

PART II

CERTIFICATE OF IDENTITY AND GOOD CHARACTER

I, ..... of ..... certify as follows:

1. THAT I have read the statutory declaration made on the ..... day of ....., 19...., by .....

2. THAT the said ..... is the same person as ..... who was formerly registered on the register of fully (provisionally) (temporarily) registered ..... with the following address and qualifications .....

3. THAT I have been and am well acquainted with the said ..... both before and since his name was erased from the said register, and I believe him to be now a person of good character, and the statements in the said declaration are, to the best of my knowledge and belief, true.

Signature ..... Registered Address ..... Registered Qualifications and full Registration Certificate Number ..... Date .....

THIRD SCHEDULE

(Rule 31)

THE MEDICAL AND ALLIED PROFESSIONS ACT, 1977

THE MEDICAL AND ALLIED PROFESSIONS (DISCIPLINARY PROCEEDINGS) RULES, 1982

SUMMONS TO APPEAR BEFORE THE DISCIPLINARY COMMITTEE OF THE MEDICAL COUNCIL OF ZAMBIA

To: .....  
.....  
.....

(Name of person summoned and his calling and residence)

YOU ARE HEREBY SUMMONED to appear at ..... (place) on ..... (day of the week), the ..... day of ....., 19...., at ..... hours before the Disciplinary Committee of the Medical Council of Zambia established under the Medical and Allied Professions Act, 1977, to give evidence respecting ..... (if the person summoned is to produce any book, record, document or thing, add) and you are required to bring ..... (Specify the book, record, document or thing required.)

GIVEN under my hand at ..... this ..... day of ....., 19....

Chairman, Medical Council of Zambia