

LEGAL NOTICE NO. 130

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 & Dentists Board, makes the following Rules:—

THE MEDICAL PRACTITIONERS AND DENTISTS
(PRACTITIONERS AND HEALTH FACILITIES) (ADVERTISING)
RULES, 2016

1. These Rules may be cited as the Medical Practitioners and Dentists (Practitioners and Health Facilities) (Advertising) Rules, 2016.

Citation.

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

Interpretation.

“advertisement” means the use of promotional information to increase sales which is transmitted through but not limited to any public communication using television, radio, motion pictures, newspapers, billboards, books, lists, pictorial representations, designs, mobile communications or other displays, the internet or directories, business cards, announcement cards, office signs, letterhead, telephone directory listings, professional lists, professional directory listings and similar professional notices;

“health institution” means an institution which, is registered by the Board under the Act for provision of medical and dental services;

“intermediary” means a person or party who provides a link between the practitioners or institutions and the patients;

“practitioner” means a person registered under the Act as a medical or dental practitioner.

3. (1) A practitioner or health institution registered under the Act shall not directly or indirectly permit any promotion which may be reasonably regarded as calculated to attract patients, clients or business except as provided under these Rules.

General conduct.

(2) Advertisements under these Rules shall only contain information about services offered in Kenya.

(3) A practitioner or health institution shall not advertise their practice in any form other than in accordance with these Rules.

(4) An advertisement made under these Rules shall—

- (a) be objective, true and dignified;
- (b) be respectful of the professional ethics of the profession;
- (c) not attempt to denigrate other practitioners or health institutions or the profession; and
- (d) not infringe on patient confidentiality.

(5) Nothing in these Rules derogates from the power of the Board to rule on the desirability or otherwise of a practitioner, a health institution or of the proposed or actual advertisements.

4. (1) A practitioner or a health institution may only provide the following information in an advertisement under these Rules —

Information which may be advertised.

- (a) the identity of the medical or dental practitioner;
- (b) the identity of the health institution or hospital;
- (c) the reference to the practitioner's specialization issued by the Board;
- (d) the address, physical location and other contact information of the practitioner, clinic, office or health institution including the email and web site;
- (e) the language of business used by the practitioner or the health institution;
- (f) the hours the clinic or facility or office is open for conducting business;
- (g) the statement of the position currently or previously held by the practitioner within the health institution;
- (h) the certification or accreditation of the practitioner with a professional body or agency including any affiliation with licensed hospitals or clinics;
- (i) the safety and quality accreditation of the practice or healthcare setting;
- (j) the year of registration and registration number of the practitioners or the health institution;
- (k) the professional and academic qualification(s) of the practitioner provided that any such professional qualifications should be recognized by the Board, and
- (l) any publication or cases or research work and provision of medical or dental education in which the practitioner or facility or other professional members of the health institution may have contributed to, provided such information does not infringe on patient confidentiality.

(2) Practitioners shall not participate in health related advertisements or endorse health related medical products and procedures unless provided for under these Rules.

5. (1) A practitioner or health institution shall not provide the following information in an advertisement under these Rules —

Information which may not be included in advertisements.

- (a) the names or identities of patients;
- (b) a picture of the patient or client, which includes images, graphic or other visual representations or facsimiles;
- (c) information that creates or is likely to create unrealistic or unwarranted expectations about the effectiveness of the health services offered;

- (d) a promise by the practitioner or health institution to achieve a particular outcome for the patient or prospective patients or clients;
- (e) a promise to complete treatment of patients in any particular time or faster than other practitioners or Health Institutions;
- (f) a promise that failure to obtain the outcome promised shall constitute a waiver of the fees for the practitioner or Health Institutions, and
- (g) deceitful, erroneous or misleading information.

(2) Despite the provisions of paragraph (1), a patient or legal guardian shall retain autonomy to consent or decide whether their information or otherwise may be shared.

6. Any signage put up by a medical or dental practitioner or health institution shall contain information in accordance with these Rules and shall not—

Signposts or notice boards.

- (a) use the Red Cross and Red Crescent or any other copyrighted signs; or
- (b) use names, photographs, images and diagrams which may be misleading to members of the public.

7. No medical or dental practitioner or health institution shall seek to advertise, solicit or attract business or patients through any of the following means—

Prohibited means of attracting business.

- (a) an “intermediary” that would amount to professional touting;
- (b) unsolicited contact;
- (c) false or misleading statements, or where undue influence is used; and
- (d) arranged referrals where commission or otherwise is arranged or paid.

8. (1) In the event a medical or dental practitioner or a health institution is in breach of any of these Rules, the Board shall upon receipt of a complaint refer the complaint to the Preliminary Inquiry Committee for an appropriate inquiry or action.

Effect of non-compliance

(2) Where a practitioner or health institution fails to comply with these Rules that practitioner or health institution commits an act of professional misconduct.

Made on the 22nd July, 2016.

CLEOPA K. MAILU,
Cabinet Secretary for Health.