

**MEDICAL PRACTITIONERS AND DENTISTS (DISCIPLINARY
PROCEEDINGS) (PROCEDURE) RULES, 1979**

[L.N. 157/1979, L.N. 21/2012, L.N. 223/2013.]

PART I - PRELIMINARY

1. Citation

These Rules may be cited as the Medical Practitioners and Dentists (Disciplinary Proceedings) (Procedure) Rules, 1979.

2. Interpretation

In these Rules, unless the context otherwise requires—

“**Board’s advocate**” means an advocate appointed by the Board to assist in conducting an inquiry under these Rules;

“**Case relating to conviction**” means a case where it is alleged that a medical practitioner or dentist has been convicted of an offence under this Act or under the Penal Code (Cap. 63);

“**Chairman**” means the chairman of the Board;

“**Charge**” means a charge or charges specified in a notice of inquiry;

“**Complainant**” means a body or person that makes a complaint to the Board;

“**Infamous or disgraceful conduct in a professional respect**” means serious misconduct judged according to the rules, written or unwritten, which govern the medical and dental professions;

“**Inquiry**” means a disciplinary inquiry held by the Board sitting as a tribunal into the conduct of a medical practitioner or dentist;

“**notice of inquiry**” means a written and signed notice from the Board which is sent to a medical or dental practitioner, specifying, in the form of a charge or charges, matters upon which the inquiry is to be held, and stating the date, time and place where the inquiry is to be held.

**PART II - PROCEEDINGS RELATING TO CONVICTION AND INFAMOUS CONDUCT
IN A PROFESSIONAL RESPECT**

3. Preliminary Inquiry Committee

(1) There is hereby established a committee to be known as the Preliminary Inquiry Committee which shall consist of seven members elected from among the members of the Board.

(2) The Director of Medical Services or, in his absence, a Deputy Director of Medical Services who is a member of the Board shall be the chairman of the Preliminary Inquiry Committee.

(3) The chairman of the Preliminary Inquiry Committee shall convene the meetings of the committee as and when necessary.

(4) The Preliminary Inquiry Committee may co-opt into the Committee any person whose knowledge and skills are necessary for the proper determination of any matter before it.

(5) A person co-opted under sub-rule (4) may attend the meetings of the Committee and participate in its deliberations but shall have no right to vote at the meeting.

[L.N. 223/2013, r. 2.]

4. Functions of Preliminary Inquiry Committee

(1) The functions of the Preliminary Inquiry Committee shall be to—

(a) conduct inquiries into the complaints submitted to it under these Rules and make appropriate recommendations to the Board;

(b) ensure that the necessary administrative and evidential arrangements have been met so as to facilitate the Board to effectively undertake an inquiry under rule 6;

(c) promote mediation and arbitration between the parties and refer matters to such mediator or arbitrator as the parties may in writing agree; and

(d) at its own liberty, record and adopt mediation agreements or compromise between the parties, on the terms agreed and thereafter inform the chairperson.

(2) Subject to paragraph (1), the Preliminary Inquiry Committee after considering the complaint and making such inquiries with respect thereto as it may think fit, shall—

(a) if of the opinion that the complaint does not warrant reference to the Board for inquiry, reject the complaint and so inform the Chairman;

(b) if of the opinion that the complaint does warrant reference to the Board, cause it to be referred to the Professional Conduct Committee together with its findings and recommendations.

(3) The Preliminary Inquiry Committee shall, in consultation with the Board, have the power to—

(a) levy reasonable costs of the proceedings from parties;

(b) make an order compelling a medical practitioner or dentist to undergo continuous professional development of not more than fifty points;

(c) suspend the licence of a medical institution for a period of not more than six months;

(d) make an order for the closure of an institution pending the compliance by that institution, of a condition or requirement under the licence issued to it under the Act; and

(e) make such further recommendations as the committee deems fit.

[L.N. 21/2012, s. 2, L.N. 223/2013, r. 3.]

4A. Professional Conduct Committee

(1) The Board may, upon the recommendation of the Preliminary Inquiry Committee, establish on an ad hoc basis, a professional Conduct Committee comprising—

- (a) a chairperson;
- (b) two persons registered in the same profession in which a medical practitioner or dentist whose conduct is being inquired is registered;
- (c) one member of the Board;
- (d) one person representing the general public;
- (e) the Board's advocate who shall be the legal advisor; and
- (f) the Chief Executive Officer of the Board.

(2) The functions of the Professional Conduct Committee shall be to—

- (a) conduct inquiries into the complaints within such counties as the Board may specify and make appropriate recommendations to the Board;
- (b) ensure that the necessary administrative and evidential arrangements have been met so as to facilitate the Board to effectively undertake an inquiry under rule 6;
- (c) convene sittings in respective counties to determine complaints;
- (d) promote arbitration between the parties and refer matters to such arbitrator as the parties may in writing agree.

(3) The Professional Conduct Committee shall, subject to prior or subsequent approval by the Board, have power to—

- (a) levy reasonable costs of the proceedings from parties;
- (b) order a medical practitioner or dentist to undergo continuous professional development for a maximum of up to fifty points;
- (c) suspend licenses for medical institutions for up to six months;
- (d) order closure of institutions until compliance with the requirements of the operating licence;
- (e) admonish a doctor or dentist or the institution and conclude the case; and
- (f) make such further recommendations as the committee deems fit.

(4) The Professional Conduct Committee may summon or correspond with persons including medical practitioners and dentists to whom a complaint relates as it thinks fit and may peruse or inspect all instruments relating to the complaint. [L.N. 21/2012, s. 3, L.N. 223/2013, r. 4.]

5. Submission of complaint or information

(1) Whenever a complaint or information is received by the Chairman from a body or person and it appears to him that—

- (a) a medical practitioner or dentist has been convicted of an offence under this Act or under the Penal Code; or

(b) that a question arises whether the conduct of a medical practitioner or dentist constitutes serious professional misconduct, the Chairman shall submit the matter to the Preliminary Inquiry Committee and Professional Conduct Committee.

(2) When the Preliminary Inquiry Committee refers the complaint to the Board under rule 4(2)(b), the Chairman shall send to the medical practitioner or dentist to whom the complaint relates a notice of inquiry which shall—

(a) be in Form 1 in the Schedule and shall, unless the Board otherwise directs, require the party to whom it is addressed to furnish the Chairman and every other party a notice of all the documents which he intends to rely on at the hearing;

(b) set out, in general terms, the charge or charges of professional misconduct made against the medical practitioner or dentist; and

(c) specify the date and time of and the place at which the inquiry is proposed to be held.

(3) The notice of inquiry shall be sent to the medical practitioner or dentist by registered post addressed to his last known address as notified to the Registrar or by any other means approved by the Board.

(4) In any case where there is a complaint, a copy of the notice of inquiry shall be sent to him. [L.N. 223/2013, r. 5.]

6. Procedure in cases relating to conviction

(1) In cases relating to conviction, where the medical practitioner or dentist appears, the following order of proceedings shall be observed as respects proof of convictions alleged in the charge or charges—

(a) the complainant, or if a complainant does not appear or there is no complainant, the Board's advocate shall adduce evidence of the conviction and produce before the Board a certified copy of the Court proceedings which resulted in the conviction of the medical practitioner or dentist;

(b) if, as regards a conviction, no evidence is adduced, the Chairman shall thereupon announce that the conviction has not been proved;

(c) the Chairman shall ask the medical practitioner or dentist whether he admits each previous conviction of which evidence is so adduced;

(d) if the medical practitioner or dentist does not admit all the convictions, he may, if he intends to adduce other oral evidence in addition to his own evidence as respects any conviction which he does not admit either in person or by his advocate, open his case;

(e) the medical practitioner or dentist or his advocate, as the case may be, may adduce evidence in respect of any conviction which he does not admit;

(f) at the close of the evidence for the medical practitioner or dentist, the complainant or the Board's advocate, as the case may be, may with the leave of the Board, adduce evidence to rebut any evidence adduced by the medical practitioner or dentist;

(g) the complainant or the Board's advocate, as the case may be, may address the Board and close his file;

(h) the medical practitioner or dentist or his advocate may then address the Board and close his case.

(2) Where the medical practitioner or dentist does not appear and the Board has decided to proceed with the inquiry, subparagraphs (a) and (b) of paragraph (1) shall apply but the remainder of that paragraph shall not apply.

(3) On the conclusion of the proceedings under this rule the Board shall consider every conviction alleged in the charge or charges, other than a conviction which has been admitted by the medical practitioner or dentist, and shall determine whether it has been proved and the Chairman shall then announce its determination in such terms as the Board may approve.

7. Procedure in cases relating to conduct

(1) In all cases relating to conduct where the medical practitioner or dentist appears the following order of proceedings shall apply—

(a) if the complainant appears, he shall open the case against the medical practitioner or dentist or where the complainant does not appear or there is no complainant, the Board's advocate shall present all the facts on which the complaint or information is based;

(b) the complainant or the Board's advocate, as the case may be, may address the Board and adduce evidence of the facts alleged in the charge or charges;

(c) if as respects any charge no evidence is adduced, the Board shall record and the Chairman shall announce a finding that the medical practitioner or dentist is not guilty of infamous or disgraceful conduct in a professional respect as alleged in the charge or charges;

(d) at the close of the case against him, medical practitioner or dentist or his advocate may make either one or both of the following submissions as respects any charge which remains outstanding namely—

- (i) that no sufficient evidence has been adduced upon which the Board could find that the facts alleged have been proved;
- ii) that the facts of which evidence has been adduced are insufficient to support a finding of infamous or disgraceful conduct in a professional respect,

and where any such submission is made, the complainant or the Board's advocate, as the case may be, may answer the submission and the medical practitioner or dentist or his advocate may reply thereto;

(e) if a submission is made under paragraph (d), the Board shall consider and determine whether the submission should be upheld and if the Board determines to uphold such a submission as regards any charge, it shall record, and the Chairman shall announce, that the medical practitioner or dentist is not guilty of infamous or disgraceful conduct in a professional respect in respect of the matters to which that charge relates;

(f) the medical practitioner or dentist may then, if he intends to adduce oral evidence in addition to his own evidence, open his case upon any charge which remains outstanding;

(g) at the close of the evidence for the medical practitioner or dentist the complainant or the Board's advocate, as the case may be, may with leave of the Board, adduce evidence to rebut any evidence adduced by the medical practitioner or dentist;

(h) the complainant, or the Board's advocate, as the case may be, may then address the Board and close his case.

(2) The medical practitioner or dentist or his advocate may then address the Board and close his case.

(3) Where in a case relating to conduct the medical practitioner or dentist does not appear and the Board decides to proceed with the inquiry only subparagraphs (a), (b) and (c) of paragraph (1) shall apply.

(4) On conclusion of the proceedings under paragraph (1) the Board shall consider and determine as respects each charge which remains outstanding which, if any, of the facts alleged in the charge has been proved to their satisfaction.

(5) If under paragraph (3) the Board decides, as regards any charge, either that none of the facts alleged in the charge have been proved to their satisfaction, or that such facts as have been proved would be insufficient to support a finding of infamous or disgraceful misconduct in a professional respect, the Board shall record a finding that the medical practitioner or dentist, as the case may be, is not guilty of the misconduct alleged in the charge or charges.

(6) The Chairman shall announce determination or the finding of the Board after the procedure prescribed under this rule has been complied with.

8. Deleted by L.N. 223/2013, r. 6.

9. Deleted by L.N. 223/2013, r. 6.

10. Inquiries into charges against two or more practitioners

(1) Nothing in these Rules shall be construed as preventing an inquiry being held jointly into charges against two or more medical practitioners or dentists.

(2) Where a joint inquiry is held, the provisions of these Rules shall apply subject to the necessary adaptations and any directions which may be given by the Board.

PART II A**10A. Application**

(1) The provisions of this Part shall apply to proceedings conducted by the Preliminary Inquiry Committee and the Professional Conduct Committee or with necessary modifications, to an inquiry held by the Board sitting as a tribunal.

(2) In this Part, "Committee" means either the Preliminary Inquiry Committee or the Professional Conduct Committee, as the case may be.

[L.N. 223/2013, r. 6.]

10B. Powers of the Committee

(1) The Committee shall, in conducting proceedings under these Rules, have power to—

- (a) administer oaths;
 - (b) summon persons to attend and give evidence;
 - (c) order the production of relevant documents, including court judgments;
- and
- (d) recover in whole or in part the cost of the inquiry not exceeding one million shillings from any or all the parties involved in the proceedings.

(2) An oath shall be administered by the chairperson of the Committee.

(3) Notices and summons of the Committee shall be issued under the hand of the Registrar and shall be deemed to have been issued by the Committee.

[L.N. 223/2013, r. 6.]

10C. Non-response by respondent

Where the respondent fails to respond to a notice of inquiry—

- (a) the hearing may proceed in his or her absence; and
- (b) he or she commits an act of professional misconduct.

[L.N. 223/2013, r. 6.]

10D. Form of proceedings

In the determination of complaints under these Rules, the Committee shall have due regard to the principles of natural justice and shall not be bound by any legal or technical rules of evidence applicable to proceedings before a court of law.

[L.N. 223/2013, r. 6.]

10E. Language of proceedings

- (1) Proceedings before the Committee shall be conducted in English or Kiswahili.
- (2) The Committee may, at its discretion, allow an application lodged in any local language spoken in Kenya by persons or a community directly affected by the subject matter of the application, if those persons or community cannot immediately obtain a translation but undertake to do so within a reasonable time.
- (3) The Committee shall, taking into account all the circumstances, grant the assistance of a competent interpreter free of charge to a party or witness who does not understand or speak the language used at the hearing or who is deaf.
- (4) The rulings of the Committee shall be prepared in the English language but may be translated, on request by a party, into the Kiswahili language.

[L.N. 223/2013, r. 6.]

10F. Information

- (1) The Committee may receive or obtain information from such persons as it may deem proper, including, information from such persons as the Committee considers to possess knowledge or experience in matters relating to any complaint before it.
- (2) Where a complaint is not disposed of after the preliminary investigation, the Committee shall review the complaint with a view to initiating further investigations.
- (3) Subject to the provisions of these Rules, the Committee may regulate its procedure in such manner as it deems fit.

[L.N. 223/2013, r. 6.]

10G. Directions and pre-hearing orders

- (1) The Committee may on its own motion or on the application by a party to the proceedings give directions, including directions for the furnishing of further particulars or supplementary statements, as are necessary to enable the parties prepare for the hearing or assist the Committee determine the issues related to the hearing before it.
- (2) The Committee may take into account the need to protect any matter that relates to the intimate, personal or financial circumstance of any party or consists of information communicated or obtained in confidence or concerns national security and may order that all or part of the evidence of a person be heard in private or prohibit or restrict the publication of that evidence.
- (3) The Committee shall not compel a person to give any evidence or produce any document or other material that he or she could not be compelled to give or produce in a trial for an action in a court of law.
- (4) An application by a party for directions shall be made in writing to the Committee and shall, unless accompanied by the written consent of all parties, be served by the party seeking directions on all other parties to the proceedings.
- (5) If any party objects to the directions sought, the Committee shall consider the objection and if it considers it necessary, give the parties an opportunity to appear and be heard by it on the objection raised.

[L.N. 223/2013, r. 6.]

10H. Non-appearance by respondent

(1) Where a medical practitioner or dentist whose conduct is the subject of investigation, without reasonable excuse, fails to appear either personally or by his representative at the time and place fixed in the notice of hearing served on him—

- (a) the inquiry may proceed in his absence; and
- (b) he or she commits an act of professional misconduct.

(2) If a person appearing at the inquiry, without reasonable excuse—

- (a) refuses or fails to be sworn or affirmed;
- (b) refuses or fails to answer a question that he is required to answer by the person chairing the Committee; or
- (c) refuses or fails to produce a document that he was required to produce by a summons served, on him or her,

he or she commits an offence.

[L.N. 223/2013, r. 6.]

10I. Failure to comply with directions

(1) Where a party fails to comply with directions given under these Rules, the Committee may, in addition to other powers available to it, before or at the hearing of the complaint dismiss the whole or part of the complaint, or, as the case may be, strike out the whole or part of a respondent's reply and where appropriate, direct that a party be excluded from participating in the hearing.

(2) The Committee shall not dismiss, strike out or give any directions under sub rule (1) unless it has served a notice on the party who has failed to comply with the direction, giving him or her an opportunity to show cause why the Committee should not give directions under sub rule (1) of this rule.

[L.N. 223/2013, r. 6.]

10J. Varying or setting aside of directions

A medical practitioner or dentist on whom directions, including any summons, are served and who had no opportunity of objecting to the making of directions may apply to the Committee to vary or set aside the directions, but the Committee shall not do so without first notifying the person who applied for the directions and considering any representations made by him.

[L.N. 223/2013, r. 6.]

10K. Summons and orders

A medical practitioner or dentist summoned to give evidence before the Committee shall be given at least seven days' notice of the hearing unless the person has informed the Committee that he or she accepts the shorter notice given.

[L.N. 223/2013, r. 6.]

10L. Exclusion of persons disrupting proceedings

Without prejudice to any other powers it may have, the Committee may exclude from the hearing or part of it, any person whose conduct has disrupted or is likely, in the opinion of the Committee, to disrupt the hearing.

[L.N. 223/2013, r. 6.]

10M. Failure of Parties to attend hearing

(1) Where a party fails to attend or be represented at a hearing of which he has been duly notified, the Committee may—

(a) unless it is satisfied that there is sufficient reason for the absence of the party, hear and determine the application in the absence of that party; or

(b) adjourn the hearing, and may make such orders as to costs as it considers fit.

(2) Before determining an application under sub-rule (1)(a) of this rule, the Committee shall consider any representations made in writing submitted by that party in response to the notice of application and for the purpose of this rule, the application and any reply shall be treated as representations in writing.

(3) A party aggrieved by the decision of the Committee under sub-rule (1) (a) may file an application within thirty days from the date of the decision for review of the order, and the Committee may within reasonable time review the order on such terms as it considers fit, if the Committee is satisfied that there was sufficient cause for non-attendance.

[L.N. 223/2013, r. 6.]

10N. Procedure at hearing

(1) The chairperson shall, at the commencement of the hearing, explain the order of proceedings which the Committee proposes to adopt.

(2) The Committee shall conduct the hearing in such manner as it considers suitable for the determination of the application or the clarification of issues before it and generally for the just handling of the proceedings and shall, so far as it appears to it appropriate, avoid legal technicality and formality in its proceedings.

(3) The parties shall be heard in such order as the Committee shall determine, and shall be entitled to give evidence, call a witness, and address the Committee on both evidence and generally on the subject matter of the application.

(4) Evidence before the Committee may be given orally or, if the Committee so orders, by affidavit or written statement, but the Committee may at any stage of the proceedings require the personal attendance of any deponent or author of a written statement.

(5) The Committee may receive evidence of any fact which appears to it to be relevant to the application.

(6) The Committee may, during the hearing and if it is satisfied that it is just and reasonable to do so, permit a party to rely on grounds not stated in his notice of application or, as the case may be, his reply and to adduce any evidence not presented to the Committee before or at the time the Committee took the disputed decision.

(7) The Committee may require any witness to give evidence on oath or affirmation and for that purpose it may administer an oath or affirmation in the prescribed form.

[L.N. 223/2013, r. 6.]

100. Quorum

The quorum at meetings of the Committee shall be four members.

[L.N. 223/2013, r. 6.]

10P. Power to determine application without hearing

The Committee may determine the application or any issue arising therefrom without an oral hearing.

[L.N. 223/2013, r. 6.]

10Q. Consolidation of proceedings

The Committee may, in its discretion and upon giving the parties concerned an opportunity to be heard, order the consolidation of any proceedings before it where complaints have been filed in respect of the same matter or in respect of several interests in the same subject in dispute.

[L.N. 223/2013, r. 6.]

10R. Amendment of pleadings

The Committee may allow any amendments to the statements of complaint or response at any stage of the proceedings, provided that such amendment shall be for the interest of justice and is aimed at aiding the determination of the proceedings upon fair notice to the other party.

10S. Extension of time [L.N. 223/2013, r. 6.]

The Committee may extend the time for doing anything under this Part on such terms as the Committee thinks fit.

[L.N. 223/2013, r. 6.]

10T. Demonstration and display facilities

The Committee may, at the request of any party and upon payment of the prescribed fees, provide visual demonstration facilities for the display of any maps, charts, diagrams, illustrations or texts and documents, which that party intends to exhibit during the hearing.

[L.N. 223/2013, r. 6.]

10U. Opportunity to be heard or cross-examine

The Committee shall grant to any party a reasonable opportunity—

- (a) to be heard, submit evidence and make representations; and
- (b) to cross-examine witnesses to the extent necessary to ensure fair hearing.

[L.N. 223/2013, r. 6.]

10V. Adjournment of proceedings

(1) The Committee may of its own motion, or upon the application of any party, adjourn the inquiry upon such terms as it thinks fit.

(2) Notice of an adjournment of the inquiry shall be given to the persons involved in the proceedings in writing by the Committee.

[L.N. 223/2013, r. 6.]

10W. Judicial notice

(1) The Committee may take judicial notice of—

- (a) facts that are publicly known and that may be judicially noticed by a court of law; and
- (b) generally recognized facts and any information, policy or rule that is within its specialized knowledge.

(2) Before the Committee takes notice of any fact, information, opinion, policy or unwritten rule other than that which may be judicially noticed by a court, it shall notify the parties of its intention and afford them a reasonable opportunity to make representations with respect thereto.

[L.N. 223/2013, r. 6.]

10X. Representation

(1) Any party to the proceedings, may represent himself or be represented by an advocate of his choice.

(2) A party represented by an advocate may, at any stage of the proceedings change his advocate upon giving notice to the Committee and his former advocate.

(3) The party shall serve the notice of change of advocate on all other parties to the proceedings.

[L.N. 223/2013, r. 6.]

10Y. Decisions of the Committee

- (1) After the hearing the complaint, the Committee may determine or order—
 - (a) that the complaint be dismissed;
 - (b) that the member be reprimanded;
 - (c) that the member be suspended from practice for a specified period not exceeding two years; or
 - (d) make such order as the Committee consider fit.
- (2) The decision of the Committee may be taken by a majority of the members present and the decision shall record whether it was unanimous or taken by a majority of the members present.
- (3) For the purposes of making the decision on the inquiry every member of the Committee has one vote, and, in the event of an equality of votes, the chairperson shall have a casting vote.
- (4) The decision of the Committee may be given orally at the end of the hearing or may be reserved and shall—
 - (a) be reduced to writing whether there has been a hearing or not; and
 - (b) shall be signed and dated by the chairperson.
- (5) A dissenting opinion may be pronounced separately by the member who wrote it and shall be dated and signed by that member.
- (6) Every document containing a decision referred to in this rule shall, as soon as may be reasonable, be entered in the register and the Committee shall send a copy of the entry to each party.
- (7) Except where a decision is announced at the end of the hearing, it shall be treated as having been made on the date on which a copy of the document recording it is sent to the applicant.
- (8) Every order or determination of the Committee shall be made under the hand of chairperson or in his or her absence by the person chairing the meeting at which the order or determination is made.
- (9) Every order or determination of the Committee bearing the signature of the person chairing shall be *prima facie* evidence that the order or determination is that of the Committee.

10Z. Reasons for decisions

The Committee shall give reasons for reaching its decision, and each decision shall include—

- (a) a statement of the findings of fact made from the evidence adduced, including, where applicable, any relevant government policy; and
- (b) a statement of the laws and rules of law applied, and the interpretation thereof.

[L.N. 223/2013, r. 6.]

PART III – PROCEEDINGS RELATING TO APPLICATIONS FOR RESTORATION**11. Application for restoration of name on register**

(1) An application for restoration of the name of a medical practitioner or dentist on the register or the restoration of a licence after removal or cancellation pursuant to sections 19 and 20 of the Act shall be in Form 2 set out in the Schedule.

(2) All applications for restoration of the name on the register shall be accompanied by a certificate of identity and good character in Form 3 set out in the Schedule and signed by a medical practitioner or dentist, as the case may be, of at least ten years' standing.

(3) The medical practitioner or dentist making an application under paragraph (1) shall give the names of three referees, two of whom shall be medical practitioners or dentists of consultant status or of at least ten years' experience and of good repute and standing and one of whom shall be a non-medical person of good repute and social status, to whom the Board can send a request for information about the character, habits and conduct of the applicant during the period of suspension.

(4) At the hearing of the application the following procedure shall be followed—

(a) the register shall state to the Board the circumstances in which the applicant's name was removed or erased from the register or the licence cancelled and shall adduce evidence as to the conduct of the medical practitioner or dentist since that time;

(b) the Chairman shall then invite the applicant to address the Board if he so wishes, and adduce evidence as to his conduct since his name was erased from the register or the licence was cancelled;

(c) the Board may, if it thinks fit, receive oral or written observation on the applicant from any body or person whose complaint resulted in the applicant's name being erased from the register or licence being cancelled.

(5) At the close of the proceedings under this rule the Board shall record and the Chairman shall pronounce the finding or determination of the Board.

(6) Subject to the provision of this rule, the proceedings of the Board in connection with applications for restoration of the name of a medical practitioner or dentist on the register or restoration of a licence after cancellation, as the case may be, shall be such as the Board may determine.

PART IV – GENERAL**12. Adjournment of proceedings**

The Board may at any stage during an inquiry under these Rules adjourn its proceedings as it thinks fit.

13. Proceedings to be in camera

The proceedings of the Board shall be held *in camera*.

14. Summons at proceedings

The Board may issue a summons, in Form 4 set out in the Schedule, to any person to attend as a witness or to produce any documents.

15. Notes taken at proceedings

Any party to the proceedings shall, on application, be furnished with a certified copy of the proceedings or determination or finding of the Board on the payment of a fee of two hundred shillings for every page of the certified copy of the proceedings or determination or finding of the Board.

16. Venue of meetings

[L.N. 223/2013, r. 7.]

Meetings of the Board for purposes of an inquiry under these Rules, except in so far as the Chairman may otherwise direct, shall be held at the offices of the Board and may be held as regularly as circumstances require.

17. Service of documents

The service of a summons or documents shall be by post or by any means approved by the Board as being the most convenient in the circumstances.

18. Evidence

(1) For the purpose of these Rules, the Board may receive oral, documentary or other evidence of any fact or matter which appears to it to be relevant to the inquiry into any matter before it.

(2) The Board may, if satisfied that the interests of justice will not be prejudiced, admit in evidence without strict proof, copies of documents which are themselves admissible, maps, plans, recorded tapes, photographs, certificates of conviction and sentence, certificates of birth and marriage and death, the records including records of the Ministry of Health and other Government Ministries, records of private practitioners, private medical institutions and any other relevant sources, the notes and minutes of proceedings before the Board and before other tribunals and courts, and the Board may take note without strict proof thereof of the professional qualifications, the address and the identity of the medical practitioner or dentist.

(3) The Board may accept and act on admissions made by any party and may in such cases dispense with proof of the matters admitted.

SCHEDULE

FORM 1

(r. 5(3))

MEDICAL PRACTITIONERS AND DENTISTS ACT
(CAP. 253)

Dr./Mr./Mrs./Miss

Address

Dear Sir/Madam,

On behalf of the Medical Practitioners and Dentists Board, notice is hereby given to you that in consequence of a complaint made to the Board against you/information received by the Board an inquiry is to be held into the following charge/charges against you.

If the charge relates to a conviction—

That you were on the day of at

(specify court recording the conviction) convicted of

(set out particulars of the conviction in sufficient detail to identify the case)

OR

If the charge relates to conduct—

That being registered under the Act 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 stated consecutively (charges relating to conviction being set out before charges relating to conduct).

Notice is further given to you that on the day of, 20 a meeting of the Board will be held at Afya House, Cathedral Road, Nairobi at a.m./p.m. to consider the above charge/charges against you and to determine whether or not the Board should direct the Registrar to remove your name from the register pursuant to section 20(1) of the Medical Practitioners and Dentists Act (Cap. 253).

You are hereby invited to answer in writing the above-mentioned charge/charges and also to appear in person before the Board at the place, date and time specified above for the purpose of answering the charge/charges. You may bring your advocate with you. The Board has power to hear and decide upon the charge/charges in your absence if you do not appear.

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 Chairman of the Board.

If you desire to make any application that the inquiry should be postponed, you should send the application to the Secretary of the Board as soon as possible, stating the grounds on which you desire a postponement.

Dated this day of, 20

.....
Registrar of the Board

MEDICAL PRACTITIONERS AND DENTISTS ACT
(CAP. 253)

APPLICATION FOR RESTORATION OF NAME IN THE REGISTER

(Note: This declaration must be made before a practitioner of not less than 10 years experience and of good standing.)

I, the undersigned
of (address)

now holding the qualification(s) of

do solemnly and sincerely declare as follows—

1. I am the person formerly registered as a medical practitioner/dentist under the name of
and the qualification(s) of
registration number and, I hereby apply for the restoration of my name to the register.
2. In an inquiry held on the day of, 20 at
(place) the Board directed my name to be erased from the register, and the offence for which the Board directed the erasure of my name was
3. Since the erasure of my name from the register, I have been residing at
and my occupation has been
4. It is my intention if my name is registered to the register to engage in private practice/to be employed, (others specify)
5. The grounds of my application are
6. Names and addresses of my referees—
(a)
(b)
(c)

Declared at Signed
On Date
Before me (Full Name)

Signed
Name of practitioner in full and registration/date of qualification.
Date

FORM 3

(r. 11(2))

MEDICAL PRACTITIONERS AND DENTISTS ACT
(CAP. 253)

CERTIFICATE OF IDENTITY AND GOOD CHARACTER

I,
of (address)
do certify as follows—

1. I have read the statutory declaration made on the
..... day of, 20 by
Dr./Mr./Mrs./Miss
of (address)
2. The said Dr./Mr./Mrs./Miss
.....
was formerly registered as a medical/dental practitioner with the following address and
qualification(s)
.....
Registration No.
3. I have been and am well acquainted with the said Dr./Mr./Mrs./Miss
both before and since his name was erased from the 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, information and belief, true.

Signed
Registered address

SCHEDULE, FORM 3—*continued*

Registered Qualifications

.....

Date

Dated this day of 20

Signature of Witness

Address Date

**MEDICAL PRACTITIONERS AND DENTISTS (PRIVATE MEDICAL INSTITUTIONS) RULES,
2000**

[L.N. 25/2000.]

1. Citation

These Rules may be cited as the Medical Practitioners and Dentists (Private Medical

Institutions)
Rules, 2000 and
shall come into
effect on the 1st
April, 2000.

**2.
Interpretation**

In these Rules,
unless the context
otherwise
requires—

“institution”
means a private
medical
institution;

“licence” means a
licence to operate
a private medical
institution issued
under these
Rules;

**“private medical
institution”**
means premises
of a private health
facility which
offers medical or