

L.N. 65 of 1966

THE MEDICAL AND DENTAL PRACTITIONERS ACT 1963 (1963 No. 9)

The Medical and Dental Practitioners (Disciplinary Tribunal and Assessors) Rules 1966

Commencement : 13th June 1966

In exercise of the powers conferred by paragraphs 2 and 4 of the Second Schedule to the Medical and Dental Practitioners Act 1963 and of all other powers enabling me in that behalf, I hereby make the following rules :—

1. These rules may be cited as the Medical and Dental Practitioners (Disciplinary Tribunal and Assessors) Rules 1966, and shall apply throughout the Republic.

Citation and application.

2. In these rules—

Interpretation.

“the Act” means the Medical and Dental Practitioners Act 1963 ;

“complainant” means any person who makes allegation of professional misconduct against a medical or dental practitioner ;

“the panel” means the Medical and Dental Practitioners Investigating Panel ;

“practitioner” means a person registered as a medical practitioner or a dental surgeon ;

“secretary” means a person appointed to act as the Registrar of the Nigeria Medical Council ;

“tribunal” means the Medical and Dental Practitioners Disciplinary Tribunal and shall include a division of the tribunal.

3. In any case where in pursuance of section 12 (3) of the Act the panel is of the opinion that a *prima facie* case is shown against a practitioner the panel shall prepare a report of the case and formulate any appropriate charge or charges and forward them to the secretary together with all the documents considered by the panel.

Reference to the tribunal.

4. The secretary shall refer the report and the charges to the president of the Nigeria Medical Council who shall convene a meeting of the tribunal, as set up in accordance with rule 5 of these Rules.

The President to convene the tribunal.

5.—(1) (a) Whenever any case of professional misconduct against a practitioner is referred to the tribunal by the panel such a case shall be heard by a division of not more than eight members comprising of fully registered practitioners appointed by the Nigeria Medical Council.

Composition of the tribunal.

(b) Where the case before the tribunal is a charge of professional misconduct against a dental practitioner, the tribunal shall include not less than two registered dental surgeons.

(c) The president of the Nigeria Medical Council or in his absence anyone appointed in that behalf shall be chairman of the tribunal.

(d) Four members of the tribunal including the chairman shall form a quorum.

(2) (a) An assessor appointed by the Nigeria Medical Council on the nomination of the Chief Justice of Nigeria in accordance with paragraph 4 of the 2nd Schedule to the Act shall sit with the tribunal and it shall be the duty of such assessor to advise the tribunal on questions of law arising in proceedings before it.

(b) Except where the tribunal is deliberating in private, the advice of the assessor on questions of law as to evidence, procedure and as to compliance with the Act shall be tendered in the presence of every party or his representative.

(c) Where the advice of the assessor is tendered while the tribunal is deliberating in private, the assessor personally shall, as soon as may be, inform each party or his representative in writing of the question which has been put to him by the tribunal and of his advice hereon.

(d) Every party or his representative shall be informed whenever the advice tendered by the assessor has not been accepted.

Parties to the proceedings before the tribunal.

6.—(1) The parties to the proceedings before the tribunal shall be :—

- (i) the Chairman of the panel ;
- (ii) the practitioner whose conduct is the subject matter of the proceedings ; and
- (iii) if the tribunal so direct, the complainant, who may be represented by a legal practitioner.

(2) The practitioner whose conduct is the subject matter of the proceedings may appear either in person or be represented by a legal practitioner and the tribunal may also employ the services of a legal practitioner to present the case before it.

Fixing of hearing day and service of notice etc. thereof by the secretary.

7.—(1) On the direction of the Chairman of the tribunal the secretary shall fix a day for the hearing of the case and shall serve notice thereof on each party to the proceedings.

(2) The secretary shall serve on each party, other than the complainant, copies of the report and all the charges prepared by the panel and all the documents considered by the panel. Service of any document on the practitioner whose conduct is the subject matter of the proceedings may be effected either by handing the document to him personally or by sending it by registered post to the address recorded in the register maintained under section 4 of the Act.

Hearing in absence of parties.

8. If any party fails to appear at the hearing, the tribunal may upon proof of service on such party of the notice of hearing, proceed to hear and determine the case in his absence :

Provided that any party who has failed to appear at the hearing, may within one calendar month from the pronouncement of the findings and directions of the tribunal and upon giving notice to every other party and to the secretary, apply to the tribunal for a rehearing. The tribunal, if satisfied that it is just that the case should be reheard, may grant the application on such terms and costs or otherwise as it thinks fit.

Hearing of witnesses and reception of documents.

9. The tribunal may in the course of its proceedings hear such witnesses and receive such documentary evidence as in its opinion may assist it in arriving at a conclusion as to the truth or otherwise of the allegations of misconduct referred to it by the panel.

10. If in the course of the proceedings it appears to the tribunal that the charges forwarded to it by the panel require to be amended or added to, the tribunal may permit such amendments or addition, as it shall think fit. Amendment of charges before the tribunal.
11. The proceedings of the tribunal shall be held, and its findings and directions shall be pronounced, in public. Holding of proceedings in public.
12. The tribunal may, of its own motion, or upon the application of any party, adjourn the hearing on such terms as to costs or otherwise as the tribunal may think fit. Adjournment.
13. If any person wilfully gives false evidence on oath before the tribunal during the course of any proceedings, or wilfully makes a false statement in any affidavit sworn for the purpose of any such proceedings, the tribunal may refer the matter to the Attorney-General of the Republic for necessary action. Penalty for giving false evidence.
14. If after the hearing, the tribunal adjudges that the allegations of infamous conduct in a professional respect have not been proved, the tribunal shall record a finding that the practitioner is not guilty of such conduct in respect of the matters to which the allegation relates. Findings of not guilty.
15. The tribunal may without finding any misconduct proved against a practitioner, nevertheless order any party to pay the costs of the proceedings if, having regard to his conduct and to all the circumstances of the case, the tribunal shall think fit so to order. Costs.
16. Subject to the provisions of section 13 of the Act (relating to the lodging of appeal against the direction of the tribunal) any direction given by the tribunal in accordance with section 13 (1) of the Act shall be published in the Nigerian *Official Gazette* as soon as such direction takes effect. Publications directions of tribunal.
- 17.—(1) Shorthand notes of proceedings may be taken by a person appointed by the tribunal and any party who appeared at the proceedings shall be entitled to inspect the transcript thereof. Record of proceedings.
- (2) The secretary shall supply to any person entitled to be heard upon an appeal against the direction of the tribunal, and to the Nigeria Medical Council, but to no other person, a copy of the transcript of such notes on payment of such charges as may be determined by the secretary.
- (3) If no shorthand notes be taken, the Chairman of the tribunal shall take a note of the proceedings and the provisions of these rules as to inspection and taking of copies shall apply to such notes accordingly.
18. The tribunal may dispense with any requirement of these Rules respecting notices, affidavits, documents, service or time in any case where it appears to the tribunal to be just so to do. Dispensing with provisions.
19. The tribunal may in any given case extend the time to do anything under the rules. Extension of time.
20. The tribunal may order that any books, or other exhibits, produced or used at a hearing, shall be retained by the secretary until the time within which an appeal may be entered has expired, and if notice of appeal is given until the appeal is heard or otherwise disposed of. Exhibits and books.

SCHEDULE

Rule 7

The Medical and Dental Practitioners Act, 1963

NOTICE OF HEARING BY THE TRIBUNAL

In the matter of A.B., a Medical/Dental practitioner
and

In the matter of the Medical and Dental Practitioners Act, 1963.

TAKE NOTICE that the report and charges prepared by the Medical and Dental Practitioners Investigating Panel in the above matter are fixed for hearing by the Medical and Dental Practitioners Disciplinary Tribunal at.....

.....on the.....day of.....19.....

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Secretary to the Tribunal

MADE at Lagos this 13th day of June 1966.

A. ADE. ADEMOLA,
Chief Justice of Nigeria