

(23 August 1985 – to date)

## **NURSING ACT 33 OF 2005**

*(Government Notice 492 in Government Gazette 28883 dated 29 May 2006. Commencement date:  
15 December 2006 – unless otherwise indicated)*

### **REGULATIONS REGARDING THE CONDITIONS UNDER WHICH THE BUSINESS OF A NURSING AGENCY MAY BE CARRIED ON**

*Government Notice R32 in Government Gazette 691 dated 10 January 1964. Commencement date:  
10 January 1964.*

#### **As amended by:**

*Government Notice R2192 in Government Gazette 4512 dated 22 November 1974. Commencement date:  
22 November 1974.*

*Government Notice R1860 in Government Gazette 5309 dated 8 October 1976. Commencement date:  
8 October 1976.*

*Government Notice 2761 in Government Gazette 8485 dated 24 December 1982. Commencement date:  
24 December 1982.*

*Government Notice R1444 in Government Gazette 8783 dated 1 July 1983. Commencement date:  
1 July 1983.*

*Government Notice R1819 in Government Gazette 9899 dated 23 August 1985. Commencement date:  
23 August 1985.*

The Minister of Health, in exercise of the powers conferred upon him by sub-section (1) of section eleven of the Nursing Act, 1957 (Act No. 69 of 1957), has approved of the following regulations regarding the conditions under which the business of a nursing agency may be carried on, made by the South African Nursing Council in substitution for the regulations published under Government Notice No. 2094 of the 1st October, 1948, as amended by Government Notices Nos. 3055 of the 8th December, 1950, 1453 of the 15th June, 1951, and 2014 of the 27th December, 1957: -

1. A licence to carry on the business of a nursing agency shall not be granted to a person under the age of 21 years.
2.
  - (1) An application for a licence shall be lodged with the Council in the form of Annexure "A".

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A list of all registered and enrolled persons who will be on the panel of the agency, shall be lodged with the application and shall reflect the following information in respect of each person: -

Full christian names, surname, maiden surname in the case of a married woman, registered qualifications or enrolled qualifications.

*(Regulation 2(1) amended by regulation 1 of Government Notice R1860 in Government Gazette 5309 dated 8 October 1976)*

- (2) A fee of three hundred rand (R300) shall be paid to the council upon application for a licence; provided that if the liability to take out a licence arises after the 30th day of June in any year, a fee of one hundred and fifty rand (R150) shall be paid; provided further that the fee shall be refunded if the application is refused.

*(Regulation 2(2) amended by regulation 1 of Government Notice R2192 in Government Gazette 4512 dated 22 November 1974)*

*(Regulation 2(2) amended by regulation 2 of Government Notice R1444 in Government Gazette 8783 dated 1 July 1983)*

*(Regulation 2(2) amended by regulation 2 of Government Notice R1819 in Government Gazette 9899 dated 23 August 1985)*

3.

- (1) An application for the renewal of a licence shall be lodged with the council in the form of Annexure "A" not later than the 31st December of the year preceding the calendar year for which such application is made. A list of all registered and enrolled persons on the panel of the agency, shall be lodged with the application and shall reflect the following information in respect of each person: -

Full christian names, surname, maiden surname in the case of a married woman, registered qualifications or enrolled qualifications.

*(Regulation 3(1) amended by regulation 2 of Government Notice R1860 in Government Gazette 5309 dated 8 October 1976)*

- (2) A fee of three hundred rand (R300) shall be paid to the council upon application for the renewal of a licence; provided that the fee shall be refunded if the application is refused.

*(Regulation 3(2) amended by regulation 2 of Government Notice R2192 in Government Gazette 4512 dated 22 November 1974)*

*(Regulation 3(2) amended by regulation 3 of Government Notice R1444 in Government Gazette 8783 dated 1 July 1983)*

*(Regulation 3(2) amended by regulation 3 of Government Notice R1819 in Government Gazette 9899 dated 23 August 1985)*

4.

- (1) An application for a licence may, at the discretion of the council, be refused if the applicant has been convicted, and a licence which has been granted may be suspended or cancelled if the licensee is convicted, of any offence under the Nursing Act or the Medical Act, or of an offence mentioned in the first schedule to the Criminal Procedure Act, 1955 (Act No. 56 of 1955), as amended, or of the offence of abortion or of the offence of conspiracy, incitement or attempt to commit abortion.
  - (2) A licensee who is so convicted shall forthwith inform the council of such conviction.
5. A licence may be suspended or cancelled if, after inquiry, the council is of the opinion that the business is conducted in a manner contrary to –

- (1) these regulations, or the Nursing Act, or the Medical Act; or
- (2) the ethics of the nursing or midwifery profession; or
- (3) the public interest.

The provisions of Part III of the Act shall apply *mutatis mutandis* to the conduct of such an inquiry.

6.

- (1) A licence shall be issued in the form of Annexure “B”.
- (2) A licence shall not be transferable.
- (3) The business may be carried on only at the address specified in the licence; provided that the business may be transferred to another address after written notice to the council. Such notice shall be forwarded to the council by registered post, or shall be delivered by hand at the council's office.
- (4) The fees referred to in regulations 2 and 3 shall not be refunded if a licence is suspended or cancelled, or if the business is abandoned.

7.

- (1) A licensee shall not advertise a nursing agency in any manner other than by advertising its name, address, telephone number and the fact that it undertakes to supply persons holding the qualifications mentioned in the licence.
- (2) A licensee shall not advertise any person (whether such person is registered or enrolled under the Act or not), or any product or business or institution or organisation of any nature whatsoever, for any purpose whatsoever and in any way whatsoever, or permit the business to be used for or in such an advertisement.

8.

- (1) A licensee shall satisfy himself that a person who applies for admission to the panel of the nursing agency is registered or enrolled in the capacities which such person claims and remains so registered or enrolled during the period such person remains on the panel.
  - (2) A licensee shall not admit to the panel of the nursing agency a person who is qualified to be registered or enrolled but is not so registered or enrolled, or who is deemed by the Act not to be registered or enrolled, neither shall such a person be supplied to a client.
9. A licensee shall enter into a standard agreement with each person admitted to the panel of the nursing agency, the terms of the agreement to be submitted to the council for approval.

.....

*(Previous regulation 10 deleted by regulation 3 of Government Notice R1860 in Government Gazette 5309 dated 8 October 1976)*

*(Previous regulations 11 to 21, renumbered to regulations 10 to 20, by regulation 4 of Government Notice R1860 in Government Gazette 5309 dated 8 October 1976)*

10.

- (1) Where a licensee undertakes to pay the fees of the persons on the panel of the agency, irrespective of whether the licensee receives or recovers payment from the clients, the licensee may charge a person on the panel, whether such person is registered or enrolled, a commission not exceeding twelve and a half per cent (12,5%) of the basic fee charged by the licensee for the services of such a person; provided that a commission shall not be charged if such person is supplied to an institution in which the licensee has a financial interest. No other commission or fee, such as a fee for admission to the panel of the nursing agency, shall be charged to such person:

*(Regulation 10(1) amended by regulation 5 of Government Notice R1860 in Government Gazette 5309 dated 8 October 1976)*

*(Regulation 10(1), previously regulation 11(1), amended by regulation 2 of Government Notice 2761 in Government Gazette 8485 dated 24 December 1982)*

- (2) Where a licensee undertakes only to supply a person on the panel of the nursing agency to clients and such person is himself responsible for the collection of his fees from the clients, or if the licensee collects the fees from the clients, but undertakes to pay the person on the panel of the nursing agency only when the fees have, in fact, been collected from the clients, the licensee may charge such a person a commission not exceeding five per cent (5%) of the basic fee charged for the services of such person, provided that such person shall not be charged a total commission of more than two rand ten cents (R2.10) in respect of any one case; provided further that a commission shall not be charged if such person is supplied to an institution in which the licensee has a financial interest. No other commission or fee, such as a fee for admission to the panel of the nursing agency, shall be charged to such person.

11. A licensee shall keep the following record in respect of each person admitted to the panel of the nursing agency. The record shall be retained for a period of at least three (3) years as from the date of the removal of such person's name from the panel: -

Full christian names;

surname;

maiden surname in the case of a married woman;

residential address;

registered qualifications or enrolled qualifications;

date of admission to the panel;

date of removal from the panel.

*(Regulation 11 amended by regulation 6 of Government Notice R1860 in Government Gazette 5309 dated 8 October 1976)*

12. A licensee shall on the first day of each calendar month submit a return to the council of the registered and enrolled persons admitted to the panel of the nursing agency during the previous calendar month. Nil returns shall be submitted. The following information regarding each person admitted shall be reflected: -

Full christian names;

surname;

maiden surname in the case of a married woman;

residential address;

registered qualifications or enrolled qualifications.

*(Regulation 12 amended by regulation 7 of Government Notice R1860 in Government Gazette 5309 dated 8 October 1976)*

13. A licensee may supply to clients only the classes of persons specified in the licence.

14. A licensee shall forthwith on supplying a person to a client, notify the client in the form of Annexure "C" of the capacities in which the person supplied is registered or enrolled. The notice shall be issued without any alteration or erasure and a true copy shall be retained for a period of at least three (3) years. Only the following terms, without any addition or amendment whatsoever, shall be used to describe the qualifications of the person supplied: -

Registered general nurse;

registered general nurse (male);

registered mental nurse;

registered nurse for mental defectives;

registered psychiatric nurse;

registered midwife;

enrolled nurse;

enrolled midwife;

enrolled nursing assistant.

*(Regulation 14 amended by regulation 8 of Government Notice R1860 in Government Gazette 5309 dated 8 October 1976)*

15. A licensee shall forthwith on supplying a person to a client notify the client in writing of the conditions which shall apply regarding the services of the person supplied, including the fees which will be charged. Such notice shall be issued without alteration or erasure and a true copy shall be retained for a period of at least three (3) years.
16. A licensee shall not supply a person to a client to perform duties outside the scope of such person's registration or enrolment; except in an emergency, or if a correctly qualified person is not available from any source. In such event, the licensee shall forthwith report the facts of the case to the council in writing.
- 17.
- (1) A licensee shall keep the following record in respect of each case. The record shall be retained for a period of at least three (3) years:-
- (a) Name of client;

- (b) residential address of client;
- (c) postal address of client;
- (d) category of service required (e.g. medical, surgical, midwifery, etc.);
- (e) name of person supplied;
- (f) date person supplied;
- (g) date service terminated;
- (h) fees charged: -

basic fee .....

additional fees (specify).....

- (i) total amount paid by client;
  - (j) commission charged to the person supplied;
  - (k) amounts paid to person supplied and dates of payment.
- (2) Except where the person supplied is himself responsible for the collection of his fees from the clients, a licensee shall render a specified account, without erasure or alteration, to each client and a true copy shall be retained for a period of at least three (3) years.
- (3) A licensee shall issue a receipt without alteration or erasure to the client for any payment made and a true copy shall be retained for a period of at least three (3) years.
- (4) The licensee shall obtain a receipt without alteration or erasure for any payment made to the person supplied to a client and such receipt shall be retained for a period of at least three (3) years.
- 18.
- (1) A licensee shall submit to the council on written demand the records and accounts of the nursing agency, and such other information as the council may deem necessary.
- (2) The records, accounts and activities of a nursing agency may be inspected and investigated at any time by the council, or on behalf of the council by a person appointed by the council.

19. A person who –

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- (a) contravenes any provision of these regulations; or
- (b) makes a false statement in an application for a licence, or for the renewal of a licence, or in the list of persons to be submitted with such an application;
- (c) alters or erases anything from a licence;
- (d) having given an undertaking as referred to in paragraph (1) of regulation 10, fails to pay in full the fees due to any person on the panel of a nursing agency;

*(Regulation 19(d) amended by regulation 9 of Government Notice R1860 in Government Gazette 5309 dated 8 October 1976)*

- (e) having collected the fees, or any portion thereof, from a client, as referred to in paragraph (2) of regulation 10, fails to pay such fees, or such portion thereof, within seven (7) days after receipt to the person concerned;

*(Regulation 19(e) amended by regulation 9 of Government Notice R1860 in Government Gazette 5309 dated 8 October 1976)*

- (f) makes a false entry in the record to be kept in terms of regulation 11;

*(Regulation 19(f) amended by regulation 9 of Government Notice R1860 in Government Gazette 5309 dated 8 October 1976)*

- (g) makes a false statement in the return to be submitted in terms of regulation 12;

*(Regulation 19(g) amended by regulation 9 of Government Notice R1860 in Government Gazette 5309 dated 8 October 1976)*

- (h) makes a false statement in a notice issued in terms of regulation 14;

*(Regulation 19(h) amended by regulation 9 of Government Notice R1860 in Government Gazette 5309 dated 8 October 1976)*

- (i) makes a false entry in the record to be kept in terms of paragraph (1) of regulation 17;

*(Regulation 19(i) amended by regulation 9 of Government Notice R1860 in Government Gazette 5309 dated 8 October 1976)*

shall be guilty of an offence and liable on conviction to a fine not exceeding hundred rand (R100).

*(Words following regulation 19(i) amended by regulation 9 of Government Notice R1860 in Government Gazette 5309 dated 8 October 1976)*

20. These regulations shall also apply in the territory of South West Africa.



“A”

**THE SOUTH AFRICAN NURSING COUNCIL**

**APPLICATION FOR A LICENCE OR FOR THE RENEWAL OF A LICENCE TO CARRY ON THE BUSINESS OF A NURSING AGENCY.**

I, <sup>(1)</sup> \_\_\_\_\_ born  
on \_\_\_\_\_, apply for a licence/the renewal of a licence <sup>(2)</sup> to carry on the business of a nursing  
agency under the style of \_\_\_\_\_

at <sup>(3)</sup> \_\_\_\_\_ for  
the supply of <sup>(4)</sup> \_\_\_\_\_

I have not been convicted of any offence/I have been convicted of the following offences in the courts and on  
the dates stated <sup>(2)</sup> \_\_\_\_\_

[A list as referred to in regulation 2(1) or regulation 3(1), as the case may be, shall be attached to the  
application.]

\_\_\_\_\_  
Signature of Applicant.

Date \_\_\_\_\_

*(Footnote (4) of Annexure A substituted by regulation 10 of Government Notice R1860 in Government  
Gazette 5309 dated 8 October 1976)*

<sup>1</sup> State full christian names, surname and maiden surname in the case of a married woman.

<sup>2</sup> Delete what does not apply.

<sup>3</sup> State the full address at which the business will be carried on.

<sup>4</sup> State 'registered nurses' and/or 'registered midwives' and/or 'enrolled nurses' and/or 'enrolled midwives' and/or 'enrolled nursing assistants'.

Prepared by:

"B"

**THE SOUTH AFRICAN NURSING COUNCIL.**

**LICENCE TO CARRY ON THE BUSINESS OF A NURSING AGENCY**

Subject to the provisions of Act No. 69 of 1947, \_\_\_\_\_

is hereby licensed to carry on the business of a nursing agency under the style of \_\_\_\_\_

at \_\_\_\_\_

for the supply of \_\_\_\_\_

until the 31st December, 19\_\_\_\_.

This licence is not transferable.

\_\_\_\_\_  
Registrar

Date \_\_\_\_\_

“C”

Name of nursing agency \_\_\_\_\_

Address of nursing agency \_\_\_\_\_

Name of client \_\_\_\_\_

Address of client \_\_\_\_\_

I have to inform you that <sup>(1)</sup> \_\_\_\_\_

is <sup>(2)</sup> \_\_\_\_\_

\_\_\_\_\_  
Signature of Licensee.

Date \_\_\_\_\_

<sup>1</sup> State name of person supplied.

<sup>2</sup> Attention is directed to the provisions of regulation 14.

*(Footnote (2) of Annexure C amended by regulation 11 of Government Notice R1860 in Government Gazette  
5309 dated 8 October 1976)*