



COUNCIL FOR MEDICAL SCHEMES

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**To:
All medical schemes, administrators, health
care provider organizations and other
interested parties**

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CIRCULAR 26 OF 2005

National Health Reference Price List (NHRPL): Osteopaths, Naturopaths, Phytotherapists

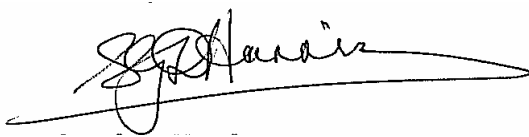
1. Work is in progress to expand the NHRPL to provide new schedules for naturopaths, osteopaths and phytotherapists (BHF practice types 101, 102 and 103 respectively).
2. In the interim, we are satisfied that there is a reasonable degree of similarity between practice and cost structures of:
 - a. naturopaths and phytotherapists, on the one hand, and homeopaths (BHF practice type 008) on the other; and
 - b. osteopaths, on the one hand, and chiropractors (BHF practice type 004) on the other.
3. Until such time as new NHRPL schedules are put in place for naturopaths, osteopaths and phytotherapists, where medical schemes currently offer benefits for these disciplines but lack internal billing codes or other mechanisms for the processing of claims, we recommend that medical schemes allow:
 - a. naturopaths and phytotherapists to bill using the homeopath schedule of the NHRPL; and
 - b. osteopaths to bill using the chiropractor schedule of the NHRPL.
4. We understand that this is already the practice among some medical schemes. Nevertheless, the decision whether or not to follow this recommendation or to use alternative mechanisms at their disposal is a decision that medical schemes need to take themselves.

Chairperson: Prof. Nicky Padayachee Vice-Chairperson: Ms Gando Matyumza Chief Executive & Registrar: Patrick Masobe

A STATUTORY BODY ESTABLISHED IN TERMS OF THE MEDICAL SCHEMES ACT, 1998 (ACT 131 OF 1998)

5. Practitioners are cautioned that any billing mechanisms that may be put in place will not affect ability to claim from medical schemes where those schemes do not offer benefits for these therapies.
6. Affected practitioners are therefore advised that, prior to submitting claims to a medical scheme, they should ascertain:
 - a. whether or not the medical scheme in fact offers benefits for the services provided; and
 - b. whether or not the scheme permits billing in terms of the NHRPL schedules, as recommended by this circular, or uses an alternative administrative structure for the submission of claims for these specific disciplines.
7. Information regarding the scopes of practice of the disciplines concerned (as supplied by the Allied Health Professions Council of South Africa) is attached for your assistance.

Sincerely

A handwritten signature in black ink, appearing to read 'Stephen Harrison', with a long horizontal flourish extending to the right.

Stephen Harrison
SENIOR SPECIALIST: POLICY AND SPECIAL PROJECTS

SCOPE OF PRACTICE: OSTEOPATHY

ACT 63 OF 1982 (AS AMENDED)

Section 1(2)

A practitioner may-

- (i) diagnose, and treat or prevent, physical and mental disease, illness or deficiencies in humans;
- (ii) prescribe or dispense medicine; or
- (iii) provide or prescribe treatment for such disease, illness or deficiencies in humans;

17. Effect of registration as practitioner

Subject to the provisions of this Act, registration confers the right upon a practitioner to practise for gain each profession in respect of which he is registered and in particular to perform for gain any of the acts specially pertaining to each such profession and to indicate each such profession upon his nameplate or in such other manner as may be prescribed.

REGULATIONS

Osteopathy

- 49. The following acts are acts specially pertaining to the profession of an osteopath:

- (a) The physical examination of any person for the purpose of diagnosing any physical defect, illness or deficiency in such person.
- (b) The treatment or prevention of any physical defect, illness or deficiency directly related to spinal, pelvic, spinovisceral and general neuro-musculoskeletal conditions in any person by-
 - (i) manipulation;
 - (ii) electrotherapy;
 - (iii) exercise therapy;
 - (iv) thermal therapy;
 - (v) vibration therapy;
 - (vi) massage therapy;
 - (vii) reflex therapy; or
 - (viii) remedies, dietary advice or dietary supplementation.

Remedies

27. Subject to the provisions of the Medicines and Related Substances Control Act, 1965, a practitioner registered as a chiropractor or osteopath -
- (a) may, for the purposes of his or her practice and within the scope of practice relevant to his or her profession, possess or have under his or her control or prescribe for a patient or supply to a patient -
 - (i) vitamins;
 - (ii) substances that are intended exclusively for application to the skin; or
 - (iii) minerals and nutritional supplements;
 - (b) may for the purposes of his or her practice, manufacture or prepare any form of any substance, preparation or mixture thereof.

Existing Phytotherapy Scope of Practice

Introduction

This document was specifically compiled for the Medical Schemes and various other bodies and institutions who do not have a clear understanding or knowledge of the rights and privileges afforded to a registered Phytotherapist.

Below are all sections and definitions from both the principle Act and the regulations thereto, which relate to or prescribe the Scope of Practice of a Phytotherapist. Particular attention should be given to the sections highlighted in yellow, specifically the "*acts specially pertaining to the profession of a phytotherapist*" and those relating to the various sections of "*remedies*".

The relationship between regulation 46 as described in the 1982 regulations and the definitions in the 2001 regulations combined with regulation 29 are most important. Together all the various sections contained in this document, directly or indirectly, make up the Scope of Practice of a Phytotherapist or influence what a Phytotherapist may or may not do.

What should also be considered is that which is NOT contained, specifically mentioned or specifically prohibited in terms of the Act and Regulations. In this respect Section 40 of the Act should enjoy special consideration.

Section 22A(3) of the Medicines Control Act states "*Any Schedule 0 substance may be sold in an open shop.*" The Allied health Professions Act states that "*.....a practitioner shall not be entitled to keep an open shop or pharmacy.*" As the Law presently stands, this infers that OTC medicines are not prescription medicines and the selling of those to patients (by a practitioner) may be construed as keeping an open shop. See also Addendum A as it relates to the Scope of Practice of a Homoeopathic Practitioner.

It should also be noted that the primary function of a Phytotherapist is to practice Phytotherapy and all other modalities, techniques and substances are adjuncts to the primary Phytotherapy treatment.

For more information contact;

The Registrar
Allied Health professions Council of SA (AHPCSA)

ALLIED HEALTH PROFESSIONS ACT, 1982
(ACT NO. 63 OF 1982)
[ASSENTED TO 26 MARCH 1982]
[DATE OF COMMENCEMENT: 1 AUGUST 1982]
A C T

Definitions

1. (1) In this Act, unless the context otherwise indicates-

"allied health profession" means the profession of ayurveda, Chinese medicine and acupuncture, chiropractic, homoeopathy, naturopathy, osteopathy, phytotherapy, therapeutic aromatherapy, therapeutic massage therapy or therapeutic reflexology, or any other profession contemplated in section 16 (1) to which this Act applies;

"intern" means a person registered as such under this Act;

"phytotherapist" means a person registered as such under this Act

"practitioner" means a person registered as an acupuncturist, ayurveda practitioner, chiropractor, homoeopath, naturopath, osteopath or phytotherapist, in terms of this Act;

"student-intern" means a person registered as such in terms of section 19;

"unprofessional conduct" means improper, disgraceful, dishonourable or unworthy conduct or conduct which, when regard is had to the profession of a person who is registered in terms of this Act, is improper or disgraceful or dishonourable or unworthy;

(2) For purposes of this Act-

(a) a practitioner may-

- (i) diagnose, and treat or prevent, physical and mental disease, illness or deficiencies in humans;
- (ii) prescribe or dispense medicine; or
- (iii) provide or prescribe treatment for such disease, illness or deficiencies in humans;

Allied health professions

16. (1) The Minister may, at the request of the council, by notice in the *Gazette* declare the provisions of this Act to be applicable to any profession which has as its object the promotion of health, or the treatment, prevention or relief of physical or mental defects, illnesses or deficiencies in humans, excluding any profession referred to in subsection (1A) or any profession to which the provisions of the Pharmacy Act, 1974 (Act No. 53 of 1974), the Health Professions Act, 1974 (Act No. 56 of 1974), the Nursing Act, 1978 (Act No. 50 of 1978), or the Dental Technicians Act, 1979 (Act No. 19 of 1979), apply.

(1A) The professions excluded in terms of subsection (1) are the professions of-

- (b) naturopathy, osteopathy and **phytotherapy**, for which professional registers shall be re-established with effect from the date of commencement of the Chiropractors, Homeopaths and Allied Health Service Professions Second Amendment Act, 2000; and

(2) The Minister may, on the recommendation of the council, by regulation define the scope of any allied health service profession by specifying the acts which shall for the purposes of the application of this Act be deemed to be acts pertaining to that profession:...

(technicalities omitted for purposes of this document)

(3) Subject to the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), and subject to the approval of the Medicines Control Council, the Minister may, on the recommendation of the council, by regulation prescribe access to and availability of medicines relative to the professions registered in terms of this Act.

(4) (a) Subject to the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), every practitioner whose name has been entered in the register of dispensing practitioners contemplated in paragraph (b) may, on such conditions as the council, after consultation with the relevant professional board, may determine in writing, in general or in a particular case, compound or dispense medicine prescribed by himself or herself or by any other practitioner with whom he or she is in partnership or with whom he or she is associated as principal or assistant or *locum tenens*, for use by a patient under treatment by such practitioner or such other practitioner: Provided that he or she may not keep an open shop or pharmacy.

Effect of registration as practitioner

17. Subject to the provisions of this Act, registration confers the right upon a practitioner to practise for gain each profession in respect of which he is registered and in particular to perform for gain any of the acts specially pertaining to each such profession and to indicate each such profession upon his nameplate or in such other manner as may be prescribed.

Offences by practitioners and students, and penalties

32. (1) A practitioner or a student who is not registered as a medical practitioner in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), may not-

- (a) pretend, or by any means whatsoever hold himself or herself out, to be a medical practitioner, or make use of the title of medical practitioner or any other title or any name, description or symbol indicating, or calculated to lead persons to infer, that he or she holds the qualifications of a medical practitioner; or
- (b) perform any act which does not fall within his or her prescribed scope of practice.

Other offences, and penalties

32A. Any person who-

- (f) supplies or offers to supply to any person not registered under this Act, the Health Professions Act, 1974 (Act No. 56 of 1974), or the Nursing Act, 1978 (Act No. 50 of 1978), any instrument or appliance which can be used, or is claimed to be effective, for the purpose of diagnosing, treating or preventing physical or mental defects, illnesses or deficiencies in man, knowing that such instrument or appliance will be used by such unregistered person for the purpose of performing for gain an act which such unregistered person is in terms of the provisions of this Act or the Health Professions Act, 1974, or Nursing Act, 1978, prohibited from performing for gain,

shall be guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding one year or to both a fine and such imprisonment.

No remuneration recoverable by unregistered persons in respect of certain acts

37. No remuneration shall be recoverable in respect of any act specially pertaining to any profession if performed by a person who is not a practitioner in the profession concerned.

CHAPTER 5

GENERAL AND SUPPLEMENTARY PROVISIONS

Regulations

38. (1) The Minister may on the recommendation of the council make regulations relating to-

- (i) the acts specially pertaining to any specified profession;

- (l) the remedies which a practitioner may in the practice of any profession in respect of which he is registered, prescribe or prepare for or supply to a patient of his, or may have in his possession or under his control for the practise by him of any such profession;

- (m) the exemption from the provisions of any regulation made under paragraph (l) of a practitioner who was at the commencement of the Homeopaths, Naturopaths, Osteopaths and Herbalists Amendment Act, 1980 (Act 40 of 1980), in the practice of his profession lawfully making use of any remedy not mentioned in any such regulation, with regard to that remedy;

(3) The provisions of subsection (1) (l) and (m) shall not be applicable to a remedy which is a Scheduled substance as defined in section 1 of the Medicines and Related Substances Control Act, 1965.

(7) The council may from time to time determine and publish requirements with regard to the manufacture, packing and labelling of remedies which may be prescribed, prepared or supplied by a practitioner in terms of subsection (1) (l) for the purposes of the practising of his registered profession.

Unregistered persons not eligible for or entitled to hold certain appointments

39. No person, except a practitioner in the profession concerned, shall be eligible for or entitled to hold any office which involves the performance by him of any act specially pertaining to a profession which he may not perform for gain: Provided that nothing in this section contained shall be construed so as to prohibit the training of any student.

Saving

40. The provisions of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974), shall not be construed as prohibiting any practitioner from performing for gain any act usually performed at the commencement of this Act by persons who practise the profession concerned in the Republic and the performance of which by any such practitioner is not prohibited by this Act.

GOVERNMENT NOTICE

No. R.2610

3 December 1982

REGULATIONS

In terms of section 38 of the **Associated Health Service Professions Act, 1982** (Act 63 of 1982)

CHAPTER 11

THE ACTS SPECIALLY PERTAINING TO ANY SPECIFIC PROFESSION

Herbalism

46. The following acts are acts specially pertaining to the profession of a herbalist:

- (a) The physical examination of any person for the purpose of diagnosing any physical defect, illness or deficiency in such person.
- (b) The treatment or prevention of any physical defect, illness or deficiency in any person by-
 - (i) remedies solely derived from plants or parts of plants; or
 - (ii) vitamins, minerals, dietary advice or dietary supplementation.

GOVERNMENT NOTICE

No. R. 1746

12 August 1983

**RULES SPECIFYING THE ACTS OR OMISSIONS IN RESPECT OF WHICH
DISCIPLINARY ACTION MAY BE TAKEN BY THE BOARD**

Approved in terms of section 29(2) of the Associated Health Service Professions Act, 1982
(Act 63 of 1982) the Rules made by the **South African Associated Health Service
Professions Board** in terms of section 29(1) of the Act.

Remedies, apparatus and processes

12. In a practice no use may be made of-

- (a) any form of treatment, apparatus or process which is secret or is claimed to be secret;
- (b) any apparatus which proves upon investigation by the board to be incapable or fulfilling the claims made in regard to it;
- (c) diagnostic and treatment methods which do not comply with the accepted standards of the professions as determined by the board from time to time;
- (d) any act which is an unacceptable act, standard or method, as from time to time determined by the board and which is brought to the attention of the practitioners.

Acts and display of certificates

14. (1) Except in emergencies, a practitioner may not perform a professional act-

- (a) which does not pertain to his registered profession;
- (b) for which he has insufficient training or experience; or
- (c) outside his consulting room, except with the prior written consent of the board and subject to such conditions as the board may determine.

Remedies

16. (1) A practitioner shall be entitled to personally compound, dispense or supply remedies referred to in section 38(1)(l)(i) of the Act which are prescribed by himself, or by another practitioner with whom he is in partnership or with whom he is associated as principal or assistant or *locum tenens*, for use by a patient under treatment of such practitioner or of such other practitioner: **Provided that a practitioner shall not be entitled to keep an open shop or pharmacy.**

(2) A practitioner may not manufacture, prepare, store or display any medicines, remedies or substances in the section of his consulting room which is used for-

- (a) consultation, examination and treatment of patients; or
- (b) waiting room purposes.

GOVERNMENT NOTICE

No. R.127

12 February 2001

REGULATIONS

In terms of section 38 of the **Allied Health Professions Act, 1982** (Act No. 63 of 1982).

Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and, unless the context otherwise indicates-

"basic substance" in relation to-

- (b) the herbal profession, means any substance obtained from plants or parts of plants from which or out of which a dilution or mixture is prepared or manufactured, or any stronger concentration of such substance;

"compounding" means the combining or mixing of substances or medicine;

"dispensing" means the issuing, interpretation and evaluation of a prescription, the selection, manipulation, preparation, recording and compounding of the medicine, the labelling and supplying of medicines in an appropriate container and the provision of information and instructions to ensure the safe and effective use of a medicine by a patient;

"formulate", for the purpose of making a medicine consisting of constituents or substances whether used alone or in combination, means to calculate or determine constituents or substances and the quantities and strengths of such constituents or substances, including the process of preparing or combining such constituents or substances or medicine, and the calculation or determination of the dosage of such medicine;

"medical device" or **"device"** means any instrument, appliance, material, machine, apparatus, implant or diagnostic reagent or any other article, whether used alone or in combination, including software necessary for its proper application, which is used for or purports to be suitable for use or which is manufactured or sold for use-

- (a) in the diagnosis, prevention, monitoring, treatment or alleviation of disease;
- (b) in the diagnosis, monitoring, treatment or alleviation of or in compensation for an injury or handicap;
- (c) in the investigation, replacement or modification of the anatomy or of a physiological process;
- (d) in the diagnosis of pregnancy, or contraception, or the termination of pregnancy; or
- (e) in the manufacture, modification, manipulation, preparation, simulation, production, application, induction or transmission of homoeopathic medicine, and which does not achieve its principal intended action in or on a human or animal body by chemical, pharmacological, immunological or metabolic means, but which may be assisted in its function by such means;

"medicine" means any substance or mixture of substances intended to be used by, or administered to, human beings for any of the following purposes:

- (a) Treating, preventing or alleviating symptoms of disease, abnormal physical or mental states or the symptoms thereof,
- (b) diagnosing disease or ascertaining the existence, degree or extent of a physical condition,
- (c) preventing or interfering with the normal operation of physiological function, whether permanently or temporarily and whether by way of terminating, reducing, postponing or increasing or accelerating the operation of that function;

and includes any substance which originates from a plant, mineral, chemical or animal and is used or intended to be used for, or purported to be useful in, complementing the healing power of a human or animal body in the treatment, modification, alleviation or prevention of disease, abnormal physical or mental state or the symptoms thereof in a human being or animal, and includes, but is not limited to, any homoeopathic substance;

"prepare" means all acts pertaining to the making or changing or adapting or manipulating of a substance or medicine, or the putting together or making ready by combining of various elements, substances or ingredients, or the making ready of substances or constituents or medicine for the purpose of compounding or manipulating or dispensing;

"substance" means anything which, whether used alone or in combination in either its original or natural state or in compounded, manipulated or prepared form, constitutes a medicine or forms part of a medicine or which is a basic or starting substance;

CHAPTER 3

REMEDIES RELATIVE TO THE VARIOUS PROFESSIONS

Phytotherapy

29. Subject to the provisions of the Medicines and Related Substances Control Act, 1965, practitioner registered as a physiotherapist may-

(a) for the purpose of his or her practice possess or have under his or her control-

- (i) vitamins;
- (ii) substances that are obtained solely from plants or parts of plants, that are not prepared in accordance with homoeopathic pharmacological principles and that are not scheduled substances;
- (iii) the following scheduled substances that are obtained solely from plants or parts of plants, and that are not prepared in accordance with homoeopathic pharmacological principles:
 - (aa) Alkaloids and glycosides;
 - (bb) all poisonous alkaloids and glycosides not specifically named in Schedule 1, 2, 3, 4, 5, 6 or 7 of the Medicines and Related Substances Control Act, 1965, containing not more than one part per thousand of such alkaloids or glycosides, excluding the following alkaloids and glycosides in the maximum strength as indicated below:
 - Aconite tincture (B.P.);
 - Belladonna tincture (B.P. 1980);
 - Cocaine: substances containing not more than one part per thousand of cocaine, calculated as cocaine alkaloid;
 - Gelsemium tincture (B.P.C. 1973);
 - Ipecacuanha tincture (B.P. 1980);
 - Sabadilla alkaloids (B.P.C. 1934);
 - Veratrum tincture (B.P.C. 1934);
 - Cantharidin;
 - Digitalis leaf (B.P. 1980);
 - Hyoscine: substances containing not more than one part per thousand thereof;
 - Nux vomica;
 - Opium tincture (Ph.Cx., 11th edition): substances containing not more than one part per thousand thereof;
 - Papaverine: substances containing not more than one part per thousand thereof;
 - Pilocarpine;
 - Pygeum africanum lipido-sterolic complex extract thereof;
 - Radix valerianae and its extracts;
 - Rauwolfia serpentina (dry root), (Ph.Cx., 11th edition);
 - Strophanthus (B.P.);
 - Tubocurarine: substances containing not more than one part per thousand thereof; and
 - Vincamine;

(b) prescribe for a patient or supply to a patient-

- (i) vitamins, excluding any substance containing an injectable form of vitamin A or vitamin B₁₂;
- (ii) substances that are obtained solely from plants or parts of plants, that are not prepared in accordance with homeopathic pharmacological principles and that are not scheduled substances;
- (iii) substances referred to in paragraph (a) (iii) in a dose not exceeding one thousandth part of an allopathic dose, excluding the following substances which may be prescribed and supplied in a dose not exceeding the dose indicated below:
 - (aa) Belladonna tincture (B.P. 1980): substances containing not more than 0,1 millilitre thereof per daily dose;
 - (bb) Cantharidin: substances containing not more than 60 micrograms thereof per daily dose;
 - (cc) Radix valerianae and its extracts: substances containing not more than 500 milligrams thereof per daily dose; and
 - (dd) Rauvolfia serpentina (dry root): substances containing not more than 1,5 milligrams thereof per daily dose; and

(c) prepare the following:

- (i) Substances, preparations and mixtures of substances that are not scheduled substances, that are obtained solely from plants or parts of plants, and that are recorded in a herbal Materia Medica or herbal Pharmacopeia; and
- (ii) substances referred to in paragraph (b) (iii), excluding-
 - (aa) a basic substance;
 - (bb) a vitamin;
 - (cc) a preparation for injection;
 - (dd) a hormone (natural or synthetic); and
 - (ee) an enzyme.

CHAPTER 7
PROFESSIONAL PRACTICE

Certificate of indisposition

53. Subject to section 23 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), a person registered as an acupuncturist, ayurveda practitioner, chiropractor, homoeopath, naturopath, osteopath or phytotherapist in terms of the Act may issue a certificate of indisposition to a patient: Provided that the certificate of indisposition shall contain the following information:....(Detail omitted for purposes of this document)

ADDENDUM B

Medicines And Related Substances Control Act 101 of 1965

Extracts relating to persons registered under the Allied Health Professions Act, 1982 (Act 63 of 1982), but more specifically those registered as "Practitioners" as defined (acupuncturist, ayurveda practitioner, chiropractor, homoeopath, naturopath, osteopath or phytotherapist).

It should be noted that only the empowering sections have been included for purposes of this specific document as it relates to the Scope of Practice of persons registered as "Practitioners" under the Allied Health Professions Act. The whole of the Medicines and Related Substances Control Act and the Regulations thereto should be read, as the conditions (excluded from the empowering sections below) are most important.

It should also be noted from the various section below, that only those persons registered as "Practitioners" as defined in terms of the Allied Health Professions Act, 1982, may prescribe medicines. (See the definition of "sell" and Section 22A(14)(b) in this respect)

1. Definitions

'practitioner' means a person registered as such under the Allied Health Professions Act, 1982 (Act 63 of 1982);

'Scheduled substance' means any medicine or other substance prescribed by the Minister under section 22A;

'sell' means sell by wholesale or retail and includes import, offer, advertise, keep, expose, transmit, consign, convey or deliver for sale or authorise, direct or allow a sale or prepare or possess for purposes of sale, and barter or exchange or supply or dispose of to any person whether for a consideration or otherwise; and 'sale' and 'sold' have corresponding meanings;

14. Prohibition on the sale of medicines which are subject to registration and are not registered

- (1) Save as provided in this section or sections 21 and 22A, no person shall sell any medicine which is subject to registration by virtue of a resolution published in terms of subsection (2) unless it is registered.
- (4) The provisions of subsection (1) shall not apply in respect of the sale of any medicine-
 - (a) compounded in the course of carrying on his or her professional activities by a pharmacist, veterinarian or person who is the holder of a license contemplated in section 22C (1) (a), for a particular patient in a quantity not greater than the quantity required for treatment as determined by the medical practitioner, pharmacist, practitioner or veterinarian; or
 - (b) compounded by a pharmacist in a quantity not greater than that prescribed by regulation for sale in the retail trade, subject to the conditions likewise prescribed or in a quantity for a particular person or animal as prescribed by a medical practitioner or a dentist or a veterinarian or a practitioner or a nurse or

other person registered under the Health Professions Act, 1974, and referred to in section 22A, as the case may be,

if such medicine does not contain any component the sale of which is prohibited by this Act or any component in respect of which an application for registration has been rejected, and is not or has not been advertised: Provided that the active components of such medicine appear in another medicine which has been registered under this Act.

19. Prohibition on sale of medicines which do not comply with prescribed requirements and furnishing of information regarding medicines to the council

- (1) No person shall sell any medicine unless it complies with the prescribed requirements.

20. Publication or distribution of false advertisements concerning medicines

- (1) No person shall-
- (a) publish or distribute or in any other manner whatsoever bring to the notice of the public or cause or permit to be published or distributed or to be so brought to the notice of the public any false or misleading advertisement concerning any medicine; or
 - (b) in any advertisement make any claim to the effect that the therapeutic efficacy and effect of any medicine is other than that stated by the council in terms of sub-paragraph (ii) of paragraph (a) of section twenty-two or state or suggest that any medicine should be used for a purpose or under circumstances or in a manner other than that stated by the council in terms of sub-paragraph (iii) or paragraph (a) of that section.

22A Control of medicines and Scheduled substances

- (1) Subject to this section, no person shall sell, have in his or her possession or manufacture any medicine or Scheduled substance, except in accordance with the prescribed conditions.
- (3) Any Schedule 0 substance may be sold in an open shop.
- (4) Any Schedule 1 substance shall not be sold-
- (a) by any person other than-
 - (v) a practitioner, nurse or a person registered under the Health Professions Act, 1974, other than a medical practitioner or dentist, who may-
 - (aa) prescribe only the Scheduled substances identified in the Schedule for that purpose;
 - (bb) compound and dispense the Scheduled substances referred to in item (aa) only if he or she is the holder of a licence contemplated in section 22C (1) (a);
- (5) Any Schedule 2, Schedule 3, Schedule 4, Schedule 5 or Schedule 6 substance shall not be sold by any person other than-

- (a) a pharmacist, pharmacist intern or a pharmacist's assistant acting under the personal supervision of a pharmacist, who may sell only Schedule 2 substances without a prescription;
- (b) a pharmacist or a pharmacist intern or pharmacist's assistant acting under the personal supervision of a pharmacist, upon a written prescription issued by an authorised prescriber or on the verbal instructions of an authorised prescriber who is known to such pharmacist;
- (f) a practitioner, a nurse or a person registered under the Health Professions Act, 1974, other than a medical practitioner or dentist, who may-
 - (i) prescribe only the Scheduled substances identified in the Schedule for that purpose;
 - (ii) compound and dispense the Scheduled substances referred to in subparagraph (i) only if he or she is the holder of a licence contemplated in section 22C (1) (a):
- (6) Any sale under subsection (5) shall only take place on condition that-
 - (h) where a Schedule 5 substance is used for-
 - (i) its anxiolytic, antidepressant or tranquillising properties it shall not be prescribed for longer than six months unless the authorised prescriber has consulted a registered psychiatrist, or, in the case of a psychiatrist, another psychiatrist before issuing a new prescription;
 - (ii) its analgesic properties it shall not be prescribed for longer than six months unless the authorised prescriber has consulted another medical practitioner, before issuing a new prescription;
 - (i) in the case of a Schedule 6 substance, it shall not be repeated without a new prescription being issued;
 - (j) in an emergency in which the health or life of a patient is at stake, a pharmacist engaged in wholesale practice may, on receipt of a telephonic or telefaxed or other electronic request, supply a Schedule 6 substance to a pharmacist, medical practitioner, dentist, veterinarian, practitioner, nurse or other person registered under the Health Professions Act, 1974, without a written order: Provided that-
 - (i) it shall be the responsibility of such pharmacist, medical practitioner, dentist, veterinarian, practitioner, nurse or other person to ensure that such pharmacist receives a written order within seven days.
 - (k) in an emergency a pharmacist may sell any Schedule 5 or Schedule 6 substance in a quantity not greater than that required for continuous use for a period of 48 hours, on the verbal instructions of a medical practitioner, dentist, veterinarian, practitioner, nurse or other person registered under the Health Professions Act, 1974, who is known to such pharmacist, but the prescriber who has given such verbal instructions shall within 72 hours after giving such instructions furnish to such pharmacist a written prescription confirming the instructions;

- (l) in an emergency a pharmacist may sell a Schedule 2, Schedule 3 or Schedule 4 substance on a non-recurring basis for a period not exceeding 30 days in accordance with the original prescription in order to ensure that therapy is not disrupted if he or she is satisfied that an authorised prescriber initiated the therapy, with the intention that the therapy be continued, and that the particulars of such sale are recorded in a prescription book or other prescribed permanent record;
- (8) Subject to subsection (9), a Schedule 8 substance shall not be acquired by any person other than the Director-General for the purpose of providing a medical practitioner therewith, on the prescribed conditions, for the treatment of a particular patient of that medical practitioner upon such conditions as the Director-General, on the recommendation of the council, may determine.
- (9) (a) No person shall-
 - (i) acquire, use, possess, manufacture, or supply any Schedule 7 or Schedule 8 substance, or manufacture any specified Schedule 5 or Schedule 6 substance unless he or she has been issued with a permit by the Director-General for such acquisition, use, possession, manufacture, or supply: Provided that the Director-General may, subject to such conditions as he or she may determine, acquire or authorise the use of any Schedule 7 or Schedule 8 substance in order to provide a medical practitioner, analyst, researcher or veterinarian therewith on the prescribed conditions for the treatment or prevention of a medical condition in a particular patient, or for the purposes of education, analysis or research;
 - (ii) manufacture, use or supply any Schedule 5 or Schedule 6 substance for other than medicinal purposes, unless he or she has been issued by the Director-General with a permit for such manufacture, use or supply upon the prescribed conditions.
- (10) Notwithstanding anything to the contrary contained in this section, no person shall sell or administer any Scheduled substance or medicine for other than medicinal purposes: Provided that the Minister may, subject to the conditions or requirements stated in such authority, authorise the administration outside any hospital of any Scheduled substance or medicine for the satisfaction or relief of a habit or craving to the person referred to in such authority.
- (14) Notwithstanding anything to the contrary contained in this section-
 - (a) a pharmacist's assistant shall not handle any specified Schedule 5 or Schedule 6 substance except as contemplated in subsection (5) (a) and (b); and
 - (b) no nurse or a person registered under the Health Professions Act, 1974, other than a medical practitioner or dentist, may prescribe a medicine or Scheduled substance unless he or she has been authorised to do so by his or her professional council concerned.
- (16) Notwithstanding anything to the contrary contained in this section-
 - (a) any person may possess a Schedule 0, Schedule 1 or Schedule 2 substance for medicinal purposes;

- (b) any person may possess a Schedule 3, Schedule 4, Schedule 5 or Schedule 6 substance if he or she is in possession of a prescription issued by an authorised prescriber;
 - (c) any medicine or scheduled substance may be possessed by a medical practitioner, dentist, veterinarian, practitioner, nurse or other person registered under the Health Professions Act, 1974, or under the Veterinary and Para-Veterinary Professions Act, 1982, for the purposes of administering it in accordance with his or her scope of practice;
 - (d) any medicine or scheduled substance may be possessed for sale by a pharmacist, a person licenced to own a pharmacy in terms of the Pharmacy Act, 1974, or a person who is the holder of a licence as contemplated in section 22C.
- (17) For the purposes of this section-
- (a) **'authorised prescriber'** means a medical practitioner, dentist, veterinarian, practitioner, nurse or other person registered under the Health Professions Act, 1974; and
 - (b) **'medicinal purpose'** means for the purposes of the treatment or prevention of a disease or some other definite curative or therapeutic purpose, but does not include the satisfaction or relief of a habit or craving for the substance used or for any other such substance, except where the substance is administered or used in a hospital or similar institution maintained wholly or partly by the Government or a provincial government or approved for such purpose by the Minister.

Existing Naturopathic Scope of Practice

Introduction

This document was specifically compiled for the Medical Schemes and various other bodies and institutions who do not have a clear understanding or knowledge of the rights and privileges afforded to a registered Naturopathic Practitioner.

Below are all sections and definitions from both the principle Act and the regulations thereto, which relate to or prescribe the Scope of Practice of a Homoeopathic Practitioner. Particular attention should be given to the sections highlighted in yellow, specifically the "*acts specially pertaining to the profession of a naturopath*" and those relating to the various sections of "*remedies*".

The relationship between regulation 48 as described in the 1982 regulations and the definitions in the 2001 regulations combined with regulation 30 are most important. Together all the various sections contained in this document, directly or indirectly, make up the Scope of Practice of a Naturopathic Practitioner or influence what a Naturopathic Practitioner may or may not do. (The Scope of Practice specific sections are highlighted in Yellow)

It should be noted that although regulation 48 as described in the 1982 regulations allows a Naturopath to use acupuncture, massage therapy and reflexology, such practitioner may NOT use the titles specifically relating to those professions as prescribed in the Act.

What should also be considered is that which is NOT contained, specifically mentioned or specifically prohibited in terms of the Act and Regulations. In this respect Section 40 of the Act should enjoy special consideration. (Section 40 is highlighted in Turquoise)

It should also be noted that the primary function of a Naturopathic Practitioner is to practice Naturopathy and all other modalities, techniques and substances are adjuncts to the primary Naturopathic treatment.

Under Chapter 3 - REMEDIES RELATIVE TO THE VARIOUS PROFESSIONS, the substances listed under sub-Regulation 30(a)(iv), are generally only available in the specified concentrations in Homoeopathic (potentised) form and then usually in a D6 / 6x dilution (which is equal to six parts per million). This being the case, and notwithstanding the restrictions contained in sub-Regulations 30(a)(ii) and (iii), it is generally accepted that Naturopaths may have access to and may prescribe those substances in the available Homoeopathic form.

Special note should be taken of Chapter 3, sub-Regulation 30(b) in relation to Rule 16 as published in GOVERNMENT NOTICE No. R. 1746, 12 August 1983, RULES SPECIFYING THE ACTS OR OMISSIONS IN RESPECT OF WHICH DISCIPLINARY ACTION MAY BE TAKEN BY THE BOARD. (These sections are highlighted in Green)

Section 22A(3) of the Medicines Control Act states "*Any Schedule 0 substance may be sold in an open shop.*" The Allied health Professions Act states that "*.....a practitioner shall not be entitled to keep an open shop or pharmacy.*" As the Law presently stands, this infers that OTC medicines are not prescription medicines and the selling of those to patients (by a practitioner) may be construed as keeping an open shop. See also Addendum A as it relates to the Scope of Practice of a Homoeopathic Practitioner.

For more information contact;

The Registrar
Allied Health professions Council of SA (AHPCSA)

ALLIED HEALTH PROFESSIONS ACT, 1982
(ACT NO. 63 OF 1982)
[ASSENTED TO 26 MARCH 1982]
[DATE OF COMMENCEMENT: 1 AUGUST 1982]
A C T

Definitions

1. (1) In this Act, unless the context otherwise indicates-

"allied health profession" means the profession of ayurveda, Chinese medicine and acupuncture, chiropractic, homoeopathy, naturopathy, osteopathy, phytotherapy, therapeutic aromatherapy, therapeutic massage therapy or therapeutic reflexology, or any other profession contemplated in section 16 (1) to which this Act applies;

"intern" means a person registered as such under this Act;

"naturopath" means a person registered as such under this Act;

"practitioner" means a person registered as an acupuncturist, ayurveda practitioner, chiropractor, homoeopath, naturopath, osteopath or phytotherapist, in terms of this Act;

"student-intern" means a person registered as such in terms of section 19;

"unprofessional conduct" means improper, disgraceful, dishonourable or unworthy conduct or conduct which, when regard is had to the profession of a person who is registered in terms of this Act, is improper or disgraceful or dishonourable or unworthy;

(2) For purposes of this Act-

(a) a practitioner may-

- (i) diagnose, and treat or prevent, physical and mental disease, illness or deficiencies in humans;
- (ii) prescribe or dispense medicine; or
- (iii) provide or prescribe treatment for such disease, illness or deficiencies in humans;

Allied health professions

16. (1) The Minister may, at the request of the council, by notice in the *Gazette* declare the provisions of this Act to be applicable to any profession which has as its object the promotion of health, or the treatment, prevention or relief of physical or mental defects, illnesses or deficiencies in humans, excluding any profession referred to in subsection (1A) or any profession to which the provisions of the Pharmacy Act, 1974 (Act No. 53 of 1974), the Health Professions Act, 1974 (Act No. 56 of 1974), the Nursing Act, 1978 (Act No. 50 of 1978), or the Dental Technicians Act, 1979 (Act No. 19 of 1979), apply.

(1A) The professions excluded in terms of subsection (1) are the professions of-

- (b) naturopathy, osteopathy and phytotherapy, for which professional registers shall be re-established with effect from the date of commencement of the Chiropractors, Homeopaths and Allied Health Service Professions Second Amendment Act, 2000; and

(2) The Minister may, on the recommendation of the council, by regulation define the scope of any allied health service profession by specifying the acts which shall for the purposes of the application of this Act be deemed to be acts pertaining to that profession:...

(technicalities omitted for purposes of this document)

(3) Subject to the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), and subject to the approval of the Medicines Control Council, the Minister may, on the recommendation of the council, by regulation prescribe access to and availability of medicines relative to the professions registered in terms of this Act.

(4) (a) Subject to the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), every practitioner whose name has been entered in the register of dispensing practitioners contemplated in paragraph (b) may, on such conditions as the council, after consultation with the relevant professional board, may determine in writing, in general or in a particular case, compound or dispense medicine prescribed by himself or herself or by any other practitioner with whom he or she is in partnership or with whom he or she is associated as principal or assistant or *locum tenens*, for use by a patient under treatment by such practitioner or such other practitioner: Provided that he or she may not keep an open shop or pharmacy.

Effect of registration as practitioner

17. Subject to the provisions of this Act, registration confers the right upon a practitioner to practise for gain each profession in respect of which he is registered and in particular to perform for gain any of the acts specially pertaining to each such profession and to indicate each such profession upon his nameplate or in such other manner as may be prescribed.

Offences by practitioners and students, and penalties

32. (1) A practitioner or a student who is not registered as a medical practitioner in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), may not-

- (a) pretend, or by any means whatsoever hold himself or herself out, to be a medical practitioner, or make use of the title of medical practitioner or any other title or any name, description or symbol indicating, or calculated to lead persons to infer, that he or she holds the qualifications of a medical practitioner; or
- (b) perform any act which does not fall within his or her prescribed scope of practice.

Other offences, and penalties

32A. Any person who-

- (f) supplies or offers to supply to any person not registered under this Act, the Health Professions Act, 1974 (Act No. 56 of 1974), or the Nursing Act, 1978 (Act No. 50 of 1978), any instrument or appliance which can be used, or is claimed to be effective, for the purpose of diagnosing, treating or preventing physical or mental defects, illnesses or deficiencies in man, knowing that such instrument or appliance will be used by such unregistered person for the purpose of performing for gain an act which such unregistered person is in terms of the provisions of this Act or the Health Professions Act, 1974, or Nursing Act, 1978, prohibited from performing for gain,

shall be guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding one year or to both a fine and such imprisonment.

No remuneration recoverable by unregistered persons in respect of certain acts

37. No remuneration shall be recoverable in respect of any act specially pertaining to any profession if performed by a person who is not a practitioner in the profession concerned.

CHAPTER 5

GENERAL AND SUPPLEMENTARY PROVISIONS

Regulations

38. (1) The Minister may on the recommendation of the council make regulations relating to-

- (i) the acts specially pertaining to any specified profession;

- (l) the remedies which a practitioner may in the practice of any profession in respect of which he is registered, prescribe or prepare for or supply to a patient of his, or may have in his possession or under his control for the practise by him of any such profession;

- (m) the exemption from the provisions of any regulation made under paragraph (l) of a practitioner who was at the commencement of the Homeopaths, Naturopaths, Osteopaths and Herbalists Amendment Act, 1980 (Act 40 of 1980), in the practice of his profession lawfully making use of any remedy not mentioned in any such regulation, with regard to that remedy;

(3) The provisions of subsection (1) (l) and (m) shall not be applicable to a remedy which is a Scheduled substance as defined in section 1 of the Medicines and Related Substances Control Act, 1965.

(7) The council may from time to time determine and publish requirements with regard to the manufacture, packing and labelling of remedies which may be prescribed, prepared or supplied by a practitioner in terms of subsection (1) (l) for the purposes of the practising of his registered profession.

Unregistered persons not eligible for or entitled to hold certain appointments

39. No person, except a practitioner in the profession concerned, shall be eligible for or entitled to hold any office which involves the performance by him of any act specially pertaining to a profession which he may not perform for gain: Provided that nothing in this section contained shall be construed so as to prohibit the training of any student.

Saving

40. The provisions of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974), shall not be construed as prohibiting any practitioner from performing for gain any act usually performed at the commencement of this Act by persons who practise the profession concerned in the Republic and the performance of which by any such practitioner is not prohibited by this Act.

GOVERNMENT NOTICE

No. R.2610

3 December 1982

REGULATIONS

In terms of section 38 of the **Associated Health Service Professions Act, 1982** (Act 63 of 1982)

CHAPTER 11

THE ACTS SPECIALLY PERTAINING TO ANY SPECIFIC PROFESSION

Naturopathy

48. The following acts are acts specially pertaining to the profession of a naturopath:

- (a) The physical examination of any person for the purpose of diagnosing any physical defect, illness or deficiency in such person.
- (b) The treatment or prevention of any physical defect, illness or deficiency in any person by-
 - (i) light therapy;
 - (ii) hydrotherapy;
 - (iii) thermal therapy;
 - (iv) acupuncture or acupressure therapy;
 - (v) electrotherapy;
 - (vi) massage therapy;
 - (vii) exercise therapy;
 - (viii) vibration therapy;
 - (ix) reflex therapy; or
 - (x) remedies, dietary advice or dietary supplementation.

GOVERNMENT NOTICE

No. R. 1746

12 August 1983

**RULES SPECIFYING THE ACTS OR OMISSIONS IN RESPECT OF WHICH
DISCIPLINARY ACTION MAY BE TAKEN BY THE BOARD**

Approved in terms of section 29(2) of the Associated Health Service Professions Act, 1982
(Act 63 of 1982) the Rules made by the **South African Associated Health Service
Professions Board** in terms of section 29(1) of the Act.

Remedies, apparatus and processes

12. In a practice no use may be made of-

- (a) any form of treatment, apparatus or process which is secret or is claimed to be secret;
- (b) any apparatus which proves upon investigation by the board to be incapable or fulfilling the claims made in regard to it;
- (c) diagnostic and treatment methods which do not comply with the accepted standards of the professions as determined by the board from time to time;
- (d) any act which is an unacceptable act, standard or method, as from time to time determined by the board and which is brought to the attention of the practitioners.

Acts and display of certificates

14. (1) Except in emergencies, a practitioner may not perform a professional act-

- (a) which does not pertain to his registered profession;
- (b) for which he has insufficient training or experience; or
- (c) outside his consulting room, except with the prior written consent of the board and subject to such conditions as the board may determine.

Remedies

16. (1) A practitioner shall be entitled to personally compound, dispense or supply remedies referred to in section 38(1)(l)(i) of the Act which are prescribed by himself, or by another practitioner with whom he is in partnership or with whom he is associated as principal or assistant or *locum tenens*, for use by a patient under treatment of such practitioner or of such other practitioner: Provided that a practitioner shall not be entitled to keep an open shop or pharmacy.

(2) A practitioner may not manufacture, prepare, store or display any medicines, remedies or substances in the section of his consulting room which is used for-

- (a) consultation, examination and treatment of patients; or
- (b) waiting room purposes.

GOVERNMENT NOTICE

No. R.127

12 February 2001

REGULATIONS

In terms of section 38 of the **Allied Health Professions Act, 1982** (Act No. 63 of 1982).

Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and, unless the context otherwise indicates-

"acupressure" means the use of direct pressure applied on acupoints;

For the purposes of the definition of **"acupuncture"**-

"acupoints" means certain points on the body that are located on meridians and are used to stimulate the meridian in order to treat various conditions of the body;

"acupuncture" means the insertion of metal needles through the skin at certain points on the body;

"compounding" means the combining or mixing of substances or medicine;

"dispensing" means the issuing, interpretation and evaluation of a prescription, the selection, **manipulation, preparation**, recording **and compounding** of the medicine, the labelling and supplying of medicines in an appropriate container and the provision of information and instructions to ensure the safe and effective use of a medicine by a patient;

"electro-acupuncture" means the application of low frequency electrical currents (1-1000 Hz) through inserted acupuncture needles with therapeutic intent;

"energy" means the influence of acuthery on the energy systems of the body which include electrical, magnetic, electromagnetic, biochemical, mechanical and thermal energy, photic or sonic;

"formulate", for the purpose of making a medicine consisting of constituents or substances whether used alone or in combination, means to calculate or determine constituents or substances and the quantities and strengths of such constituents or substances, including the process of preparing or combining such constituents or substances or medicine, and the calculation or determination of the dosage of such medicine;

"Korean hand acupuncture" means a system of acupuncture therapy comprising a variety of methods of stimulating only the hands or feet directly, but at the same time attaining a therapeutic effect elsewhere on the body;

"laser acupuncture" means the use of low energy (1 to 21 mw output) laser emissions to stimulate acupoints;

"magnetic therapy" means the use of the polar effects of static magnets of variable strength, applied to acupuncture points with therapeutic intent;

"manipulate" in relation to-

(c) therapeutic massage therapy, means the manipulation of soft tissue by

manual means;

"massage", in relation to massage therapy, means the mobilisation of soft tissue;

"medical device" or **"device"** means any instrument, appliance, material, machine, apparatus, implant or diagnostic reagent or any other article, whether used alone or in combination, including software necessary for its proper application, which is used for or purports to be suitable for use or which is manufactured or sold for use-

- (a) in the diagnosis, prevention, monitoring, treatment or alleviation of disease;
- (b) in the diagnosis, monitoring, treatment or alleviation of or in compensation for an injury or handicap;
- (c) in the investigation, replacement or modification of the anatomy or of a physiological process;
- (d) in the diagnosis of pregnancy, or contraception, or the termination of pregnancy; or
- (e) in the manufacture, modification, manipulation, preparation, simulation, production, application, induction or transmission of homoeopathic medicine, and which does not achieve its principal intended action in or on a human or animal body by chemical, pharmacological, immunological or metabolic means, but which may be assisted in its function by such means;

"medicine" means any substance or mixture of substances intended to be used by, or administered to, human beings for any of the following purposes:

- (a) Treating, preventing or alleviating symptoms of disease, abnormal physical or mental states or the symptoms thereof,
- (b) diagnosing disease or ascertaining the existence, degree or extent of a physical condition,
- (c) preventing or interfering with the normal operation of physiological function, whether permanently or temporarily and whether by way of terminating, reducing, postponing or increasing or accelerating the operation of that function;

and includes any substance which originates from a plant, mineral, chemical or animal and is used or intended to be used for, or purported to be useful in, complementing the healing power of a human or animal body in the treatment, modification, alleviation or prevention of disease, abnormal physical or mental state or the symptoms thereof in a human being or animal, and includes, but is not limited to, any homoeopathic substance;

"meridians (channel theory)" in accordance with Chinese medicine theory, means the subtle energy pathways by which qi is circulated through the body;

"naturopathy" means a system of healing based on promoting health and treating disease using the body's inherent biological healing mechanisms to self-heal through the application of non-toxic methods;

"prepare" means all acts pertaining to the making or changing or adapting or manipulating of a substance or medicine, or the putting together or making ready by combining of various

elements, substances or ingredients, or the making ready of substances or constituents or medicine for the purpose of compounding or manipulating or dispensing;

"qi gong" means a Chinese system of physical exercise, breathing and mental training, which has the aim of strengthening and controlling the circulation of the body's energy;

"substance" means anything which, whether used alone or in combination in either its original or natural state or in compounded, manipulated or prepared form, constitutes a medicine or forms part of a medicine or which is a basic or starting substance;

"therapeutic massage therapy" means a massage therapy treatment delivered for a specific therapeutic outcome;

"therapeutic reflexology" means the stimulation of the hands, feet, ears and body, including specific pressure techniques or mobilisation of hands and feet for a therapeutic outcome.

CHAPTER 3
REMEDIES RELATIVE TO THE VARIOUS PROFESSIONS

Naturopathy

30. Subject to the provisions of the Medicines and Related Substances Control Act, 1965, a practitioner registered as a naturopath-

(a) may for the purposes of his or her practice possess or have under his or her control or prescribe for a patient or supply to a patient-

- (i) vitamins, excluding substances containing an injectable form of vitamin A or vitamin B₁₂;
- (ii) substances that are intended exclusively for application to the skin, that are not prepared in accordance with homoeopathic pharmacological principles and that are not scheduled substances;
- (iii) minerals that are not prepared in accordance with homoeopathic pharmacological principles and that are not scheduled substances; and
- (iv) the following substances in a concentration of one part per million:
 - (aa) Calcarea fluorica;
 - (bb) Calcarea phosphorica;
 - (cc) Calcarea sulphuricum;
 - (dd) Ferrum phosphoricum;
 - (ee) Kali muriaticum;
 - (ff) Kali phosphoricum;
 - (gg) Kali sulphuricum;
 - (hh) Magnesia phosphorica;
 - (ii) Natrium muriaticum;
 - (jj) Natrium phosphoricum;
 - (kk) Natrium sulphuricum; and
 - (ll) Silicae; and

(b) shall not, for the purposes of his or her practice, manufacture or prepare any form of any substance or preparation or mixture thereof.

CHAPTER 7
PROFESSIONAL PRACTICE

Certificate of indisposition

53. Subject to section 23 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), a person registered as an acupuncturist, ayurveda practitioner, chiropractor, homoeopath, naturopath, osteopath or phytotherapist in terms of the Act may issue a certificate of indisposition to a patient: Provided that the certificate of indisposition shall contain the following information:....(Detail omitted for purposes of this document)

ADDENDUM B

Medicines And Related Substances Control Act 101 of 1965

Extracts relating to persons registered under the Allied Health Professions Act, 1982 (Act 63 of 1982), but more specifically those registered as "Practitioners" as defined (acupuncturist, ayurveda practitioner, chiropractor, homoeopath, naturopath, osteopath or phytotherapist).

It should be noted that only the empowering sections have been included for purposes of this specific document as it relates to the Scope of Practice of persons registered as "Practitioners" under the Allied Health Professions Act. The whole of the Medicines and Related Substances Control Act and the Regulations thereto should be read, as the conditions (excluded from the empowering sections below) are most important.

It should also be noted from the various section below, that only those persons registered as "Practitioners" as defined in terms of the Allied Health Professions Act, 1982, may prescribe medicines. (See the definition of "sell" and Section 22A(14)(b) in this respect)

1. Definitions

'practitioner' means a person registered as such under the Allied Health Professions Act, 1982 (Act 63 of 1982);

'Scheduled substance' means any medicine or other substance prescribed by the Minister under section 22A;

'sell' means sell by wholesale or retail and includes import, offer, advertise, keep, expose, transmit, consign, convey or deliver for sale or authorise, direct or allow a sale or prepare or possess for purposes of sale, and barter or exchange or supply or dispose of to any person whether for a consideration or otherwise; and 'sale' and 'sold' have corresponding meanings;

14. Prohibition on the sale of medicines which are subject to registration and are not registered

- (1) Save as provided in this section or sections 21 and 22A, no person shall sell any medicine which is subject to registration by virtue of a resolution published in terms of subsection (2) unless it is registered.
- (4) The provisions of subsection (1) shall not apply in respect of the sale of any medicine-
 - (a) compounded in the course of carrying on his or her professional activities by a pharmacist, veterinarian or person who is the holder of a license contemplated in section 22C (1) (a), for a particular patient in a quantity not greater than the quantity required for treatment as determined by the medical practitioner, pharmacist, practitioner or veterinarian; or
 - (b) compounded by a pharmacist in a quantity not greater than that prescribed by regulation for sale in the retail trade, subject to the conditions likewise prescribed or in a quantity for a particular person or animal as prescribed by a medical practitioner or a dentist or a veterinarian or a practitioner or a nurse or

other person registered under the Health Professions Act, 1974, and referred to in section 22A, as the case may be,

if such medicine does not contain any component the sale of which is prohibited by this Act or any component in respect of which an application for registration has been rejected, and is not or has not been advertised: Provided that the active components of such medicine appear in another medicine which has been registered under this Act.

19. Prohibition on sale of medicines which do not comply with prescribed requirements and furnishing of information regarding medicines to the council

- (1) No person shall sell any medicine unless it complies with the prescribed requirements.

20. Publication or distribution of false advertisements concerning medicines

- (1) No person shall-
- (a) publish or distribute or in any other manner whatsoever bring to the notice of the public or cause or permit to be published or distributed or to be so brought to the notice of the public any false or misleading advertisement concerning any medicine; or
 - (b) in any advertisement make any claim to the effect that the therapeutic efficacy and effect of any medicine is other than that stated by the council in terms of sub-paragraph (ii) of paragraph (a) of section twenty-two or state or suggest that any medicine should be used for a purpose or under circumstances or in a manner other than that stated by the council in terms of sub-paragraph (iii) or paragraph (a) of that section.

22A Control of medicines and Scheduled substances

- (1) Subject to this section, no person shall sell, have in his or her possession or manufacture any medicine or Scheduled substance, except in accordance with the prescribed conditions.
- (3) Any Schedule 0 substance may be sold in an open shop.
- (4) Any Schedule 1 substance shall not be sold-
- (a) by any person other than-
 - (v) a practitioner, nurse or a person registered under the Health Professions Act, 1974, other than a medical practitioner or dentist, who may-
 - (aa) prescribe only the Scheduled substances identified in the Schedule for that purpose;
 - (bb) compound and dispense the Scheduled substances referred to in item (aa) only if he or she is the holder of a licence contemplated in section 22C (1) (a);
- (5) Any Schedule 2, Schedule 3, Schedule 4, Schedule 5 or Schedule 6 substance shall not be sold by any person other than-

- (a) a pharmacist, pharmacist intern or a pharmacist's assistant acting under the personal supervision of a pharmacist, who may sell only Schedule 2 substances without a prescription;
- (b) a pharmacist or a pharmacist intern or pharmacist's assistant acting under the personal supervision of a pharmacist, upon a written prescription issued by an authorised prescriber or on the verbal instructions of an authorised prescriber who is known to such pharmacist;
- (f) a practitioner, a nurse or a person registered under the Health Professions Act, 1974, other than a medical practitioner or dentist, who may-
 - (i) prescribe only the Scheduled substances identified in the Schedule for that purpose;
 - (ii) compound and dispense the Scheduled substances referred to in subparagraph (i) only if he or she is the holder of a licence contemplated in section 22C (1) (a):
- (6) Any sale under subsection (5) shall only take place on condition that-
 - (h) where a Schedule 5 substance is used for-
 - (i) its anxiolytic, antidepressant or tranquillising properties it shall not be prescribed for longer than six months unless the authorised prescriber has consulted a registered psychiatrist, or, in the case of a psychiatrist, another psychiatrist before issuing a new prescription;
 - (ii) its analgesic properties it shall not be prescribed for longer than six months unless the authorised prescriber has consulted another medical practitioner, before issuing a new prescription;
 - (i) in the case of a Schedule 6 substance, it shall not be repeated without a new prescription being issued;
 - (j) in an emergency in which the health or life of a patient is at stake, a pharmacist engaged in wholesale practice may, on receipt of a telephonic or telefaxed or other electronic request, supply a Schedule 6 substance to a pharmacist, medical practitioner, dentist, veterinarian, practitioner, nurse or other person registered under the Health Professions Act, 1974, without a written order: Provided that-
 - (i) it shall be the responsibility of such pharmacist, medical practitioner, dentist, veterinarian, practitioner, nurse or other person to ensure that such pharmacist receives a written order within seven days.
 - (k) in an emergency a pharmacist may sell any Schedule 5 or Schedule 6 substance in a quantity not greater than that required for continuous use for a period of 48 hours, on the verbal instructions of a medical practitioner, dentist, veterinarian, practitioner, nurse or other person registered under the Health Professions Act, 1974, who is known to such pharmacist, but the prescriber who has given such verbal instructions shall within 72 hours after giving such instructions furnish to such pharmacist a written prescription confirming the instructions;

- (l) in an emergency a pharmacist may sell a Schedule 2, Schedule 3 or Schedule 4 substance on a non-recurring basis for a period not exceeding 30 days in accordance with the original prescription in order to ensure that therapy is not disrupted if he or she is satisfied that an authorised prescriber initiated the therapy, with the intention that the therapy be continued, and that the particulars of such sale are recorded in a prescription book or other prescribed permanent record;
- (8) Subject to subsection (9), a Schedule 8 substance shall not be acquired by any person other than the Director-General for the purpose of providing a medical practitioner therewith, on the prescribed conditions, for the treatment of a particular patient of that medical practitioner upon such conditions as the Director-General, on the recommendation of the council, may determine.
- (9) (a) No person shall-
 - (i) acquire, use, possess, manufacture, or supply any Schedule 7 or Schedule 8 substance, or manufacture any specified Schedule 5 or Schedule 6 substance unless he or she has been issued with a permit by the Director-General for such acquisition, use, possession, manufacture, or supply: Provided that the Director-General may, subject to such conditions as he or she may determine, acquire or authorise the use of any Schedule 7 or Schedule 8 substance in order to provide a medical practitioner, analyst, researcher or veterinarian therewith on the prescribed conditions for the treatment or prevention of a medical condition in a particular patient, or for the purposes of education, analysis or research;
 - (ii) manufacture, use or supply any Schedule 5 or Schedule 6 substance for other than medicinal purposes, unless he or she has been issued by the Director-General with a permit for such manufacture, use or supply upon the prescribed conditions.
- (10) Notwithstanding anything to the contrary contained in this section, no person shall sell or administer any Scheduled substance or medicine for other than medicinal purposes: Provided that the Minister may, subject to the conditions or requirements stated in such authority, authorise the administration outside any hospital of any Scheduled substance or medicine for the satisfaction or relief of a habit or craving to the person referred to in such authority.
- (14) Notwithstanding anything to the contrary contained in this section-
 - (a) a pharmacist's assistant shall not handle any specified Schedule 5 or Schedule 6 substance except as contemplated in subsection (5) (a) and (b); and
 - (b) no nurse or a person registered under the Health Professions Act, 1974, other than a medical practitioner or dentist, may prescribe a medicine or Scheduled substance unless he or she has been authorised to do so by his or her professional council concerned.
- (16) Notwithstanding anything to the contrary contained in this section-
 - (a) any person may possess a Schedule 0, Schedule 1 or Schedule 2 substance for medicinal purposes;

- (b) any person may possess a Schedule 3, Schedule 4, Schedule 5 or Schedule 6 substance if he or she is in possession of a prescription issued by an authorised prescriber;
 - (c) any medicine or scheduled substance may be possessed by a medical practitioner, dentist, veterinarian, practitioner, nurse or other person registered under the Health Professions Act, 1974, or under the Veterinary and Para-Veterinary Professions Act, 1982, for the purposes of administering it in accordance with his or her scope of practice;
 - (d) any medicine or scheduled substance may be possessed for sale by a pharmacist, a person licenced to own a pharmacy in terms of the Pharmacy Act, 1974, or a person who is the holder of a licence as contemplated in section 22C.
- (17) For the purposes of this section-
- (a) **'authorised prescriber'** means a medical practitioner, dentist, veterinarian, practitioner, nurse or other person registered under the Health Professions Act, 1974; and
 - (b) **'medicinal purpose'** means for the purposes of the treatment or prevention of a disease or some other definite curative or therapeutic purpose, but does not include the satisfaction or relief of a habit or craving for the substance used or for any other such substance, except where the substance is administered or used in a hospital or similar institution maintained wholly or partly by the Government or a provincial government or approved for such purpose by the Minister.