

FREQUENTLY ASKED QUESTIONS

1. Can a Health Practitioner advertise 'quote comparisons' in a mall or public spaces?

A practitioner shall be allowed to advertise his or her services or permit, sanction or acquiesce to such advertisement: Provided that the advertisement is not unprofessional, untruthful, deceptive or misleading or causes consumers unwarranted anxiety that they may be suffering from any health condition.

Quote comparisons amount to canvassing which is defined as conduct which draws attention, either verbally or by means of printed or electronic media, to one's personal qualities, superior knowledge, quality of service, professional guarantees or best practice;

2. Can a Health Practitioner advertise his/her practice on a video billboard?

Advertising on electronic video or billboards is not permissible.

3. Does a practice name have to include names of all active partners?

A practitioner shall use his or her own name or the name of a registered practitioner or practitioners with whom he or she is in partnership or with whom he or she practises as a juristic person, as a name for his or her private practice.

The name of a deceased partner may be used with permission of

A practitioner shall not use, in the name of his or her private practice, the expression "hospital", "clinic" or "institute" or any other expression which may give the impression that such private practice forms part of, or is in association with, a hospital, clinic or institute.

4. Can a practice retain the name of a deceased partner or the name of former partner?

A practitioner referred may retain the name of private practice even if another practitioner, partner of such partnership or member of such juristic person is no longer part of such private practice: provided that the express consent of the past practitioner or, in the case of a deceased practitioner the consent of the executor of his or her estate or his or her next-of-kin, has been obtained.

5. Can a practitioner make use of patient images on a practice's website to advertise his services?

A practitioner must obtain express consent from patients before publishing personal information about them in media to which the public has access, for example in journals or text books, whether or not the practitioners believe the patients can be identified. Express consent must, therefore, be sought to the publication of patient information, for example case-histories about or photographs of patients. Where health care practitioners wish to publish information about a patient who has died.

A practitioner shall divulge verbally or in writing information regarding a patient Which he or she ought to divulge only –

- a) in terms of a statutory provision;
- b) at the instruction of a court of law; or
- c) where justified in the public interest.

Any information other than the information shall be divulged by a practitioner only; –

- a) with the express consent of the patient;
- b) in the case of a minor under the age of 12 years, with the written consent of his or her parent or guardian; or
- c) in the case of a deceased patient, with the written consent of his or her next-of-kin or the executor of such deceased patient's estate.

6. Is a medical certificate without the practitioner's signature valid?

A valid medical certificate must contain the following:

A practitioner shall grant a certificate of illness only if such certificate contains the following information –

- a) the name, address and qualification of such practitioner;
- b) the name of the patient;
- c) the employment number of the patient (if applicable);
- d) the date and time of the examination;
- e) whether the certificate is being issued as a result of personal observations by such practitioner during an examination, or as a result of information which has been received from the patient and which is based on acceptable medical grounds;
- f) a description of the illness, disorder or malady in layman's terminology with the informed consent of the patient: Provided that if such patient is not prepared to give such consent, the practitioner shall merely specify that, in his or her opinion based on an examination of such patient, such patient is unfit to work;
- g) whether the patient is totally indisposed for duty or whether such patient is able to perform less strenuous duties in the work situation;
- h) the exact period of recommended sick leave;
- i) the date of issue of the certificate of illness; and
- j) the initial and surname in block letters and the registration number of the practitioner who issued the certificate.

A certificate of illness referred shall be signed by a practitioner next to his or her initials and surname printed in block letters.

If pre-printed stationery is used, a practitioner shall delete words which are not applicable.

A practitioner shall issue a brief factual report to a patient where such patient requires information concerning himself or herself.

7. **Period for which medical practitioners and dentists may book off patients on sick leave**

It is within the discretion of a medical practitioner or dentist in terms of his or her education and Training and clinical experience to determine the period that a patient under his or her care and treatment was to be booked off from work.

8. **Who is allowed to book off patients?**

Only certificates of illness issued by medical practitioners or dentists registered in terms of Act No. 56 of 1974 were to be recognised and it is the prerogative of the recipient of a certificate of illness to accept or not to accept such certificate.

The Council is unable to express a view on the legality or validity of certificates of illness issued by healthcare professionals registered with other councils.

9. **Can a practitioner issue a medical certificate without examining the patient?**

Yes, The practitioner who issue medical certificate shall make it clear that it is being issued as a result of personal observations by such practitioner during an examination, or as a result of information which has been received from the patient and which is based on acceptable medical grounds.

10. **Can a practitioner consult with a patient using telehealth media?**

Yes, In view of the above and after consultation with the twelve(12) Professional Boards under the ambit of the HPCSA the following provisions are hereby amended:

Clause (b) of the Guidance on the Application of Telemedicine Guidelines During the COVID-19 Pandemic which stated:

“Telehealth is only permissible in circumstances where there is an already established practitioner-patient relationship, except where Telepsychology and/or Telepsychiatry is involved, in which case telehealth is permissible even without an established practitioner-patient relationship”.

Is hereby amended as follows:

“Telehealth should preferably be practised in circumstances where there is an already established practitioner-patient relationship. Where such a relationship does not exist, practitioners may still consult using Telehealth provided that such consultations are done in the best clinical interest of patients.”

Clause (c) which stated:

“Practitioners may charge a fee for services rendered through a telehealth platform.”

Is hereby amended as follows:

“Although practitioners may charge fees for consultations undertaken through Telehealth platforms, the Council strongly cautions against practices that may amount to over-servicing, perverse incentives and supersession.

Practitioners are reminded that the Ethical Rules of Conduct for Health Practitioners registered under the Health Professions Act are still applicable during the practice of Telehealth; that this guidance is only applicable during the COVID-19 pandemic and that the HPCSA shall inform practitioners of when this guidance will cease to apply.”

The Council approved that fee can be charged for telehealth services in 4 above, and the practitioners are advised to liaise with respective medical aid institutions, Board of Healthcare Funders or Council for Medical Schemes for reimbursement tariffs and billing codes.

11. Can a practitioner stop treatment of certain patients until accounts which are overdue, had been brought up to date?

The practitioner is at liberty to decide to whom he or she wished to render services or not, a practitioner may be called upon to justify his or her action in the event of unnecessary suffering or death resulting from refusal to render assistance to a patient.

12. Can a practitioner share a profit or receive gratuitous payment with persons not registered with HPCSA?

A practitioner shall not accept commission from a person or another practitioner in return for the purchase, sale or supply of any goods, substances or materials used by him or her in the conduct of his or her professional practice or pay commission to any person for recommending patients.

Fees shall not be shared with any person or practitioner who has not taken a commensurate part in the services for which those fees are charged, and fees shall not be charged by practitioner not personally rendered service, except those in partnerships.

13. Can a practitioner charge a patient for services not rendered or can a patient pay in advance?

Advance payment of fees by patients for services rendered by practitioners would only be acceptable to Council, provided that such payment related only to the co-payments at medical aid rates required from patients and with regard to costs of prostheses, consideration could be given to letting the patient purchase some prostheses from a supplier or through the institution where the operation was to be performed prior to the operation itself.

14. What is split billing and is it acceptable?

Split-billing occur when a patient is billed separately for the amount to be paid by the patient or member which the scheme does not cover, and the medical scheme is billed separately in line with the medical scheme tariff amount. In other words, the account to the patient reflects only

the amount for which the patient is responsible, while the claim or account to the medical scheme reflects only the amount equal to the benefits the medical scheme is prepared to pay for the service rendered and does not reflect the out-of-pocket payment by the patient. Split-billing is unethical, and practitioners should refrain from such a practice.

The HPCSA remind healthcare practitioners that they have an obligation to inform the patient about the cost of services before rendering the services. It should be noted that this has nothing to do with the benefit option the patient has purchased with their medical aid or the scale of benefits of the medical aid in relation to the service to be provided.

15. Are the fees charged reasonable?

The HPCSA does not prescribe how much a practitioner charges for their services rendered, however Section 53 of the Health Professions Act 56 of 1974 states:

Every person registered under this Act (in this section referred to as the practitioner) shall, unless the circumstances render it impossible for him or her to do so, before rendering any professional services inform the person to whom the services are to be rendered or any person responsible for the maintenance of such person, of the fee which he or she intends to charge for such services -

- (a) when so requested by the person concerned; or
- (b) when such fee exceeds that usually charged for such services,

and shall in a case to which paragraph (b) relates, also inform the person concerned of the usual fee.

Any practitioner who in respect of any professional services rendered by him or her claims payment from any person (in this section referred to as the patient) shall, subject to the provisions of section 32 of the Medical Schemes Act, 1998 (Act No. 131 of 1998), furnish the patient with a detailed account within a reasonable period.

The patient may, within three months after receipt of the account apply in writing to the professional board to determine the amount which in the opinion of the professional board should have been charged in respect of the services to which the account relates, and the professional board shall, as soon as possible after receipt of the application, determine the said amount and notify the practitioner and the patient in writing of the amount so determined: Provided that before the professional board determines the said amount, it shall afford the practitioner concerned an opportunity to submit to it in writing his or her case in support of the amount charged.

16. Can a practitioner charge fees for a virtual consultation during the COVID-19 national Lockdown?

Practitioners may charge a fee for services rendered through a telehealth platform. Telehealth is only permissible in circumstances where there is an already established practitioner-patient relationship, except where Telepsychology, Telepsychiatry or other forms of Telehealth media is involved.

17. Can the practitioners prescribe the medicine or medical device which s/he own or hold shares?

Although a practitioner shall not engage in or advocate the preferential use or prescription of any medicine or medical device which, save for the valuable consideration he or she may derive from such preferential use or prescription, would not be clinically appropriate or the most cost-effective option, the practitioner is not prohibited to dispense such medicine or medical device in terms of a licence issued in terms of the Medicines and Related Substances Act, 1965.

18. Can a practitioner keep open shop?

A practitioner shall not participate in the manufacture for commercial purposes, or in the sale, advertising or promotion of any medicine or medical device or in any other activity that amounts to selling medicine or medical devices to the public or keeping an open shop or pharmacy, medicine or medical devices.

19. How much leave can a Community Service Practitioner take?

If a period of community service is broken or interrupted, such period shall consist of periods which, when added together are not less than one calendar year in total, including approved periods of leave: Provided that community service shall be completed within a maximum period of two years.

20. Can a practitioner perform a procedure on patient without patient consent?

It is the responsibility of the treating medical practitioner to ensure that all attempts to obtain informed consent are exhausted, and at when the patient is unable to offer consent, the next of kin shall be consulted. The medical superintendent of a hospital may give consent to a medical treatment of minor under the circumstances where all unsuccessful efforts are made trace the legal guardian.

21. Can practitioner divulge sensitive personal information about a patient?

A practitioner shall divulge verbally or in writing information regarding a patient which he or she ought to divulge only

- (a) in terms of a statutory provision;
- (b) at the instruction of a court of law; or
- (c) where justified in the public interest.

Any information other than the information referred to shall be divulged by a practitioner only –

(a) with the express consent of the patient;

(b) in the case of a minor under the age of 12 years, with the written consent of his or her parent or guardian; or

(c) in the case of a deceased patient, with the written consent of his or her next-of-kin or the executor of such deceased patient's estate.

22. What acts is the practitioner allowed to perform?

A practitioner shall perform, except in an emergency, only a professional act

(a) for which he or she is adequately educated, trained and sufficiently experienced; and

(b) under proper conditions and in appropriate surroundings.

23. What can I do if the employer is forcing me to perform acts that are not within my scope of profession

Inform the employer that it is against the Health Professions Council to perform acts not within the professional scope defined according to section 33 of the Health Professions Acts. Liaise with the Health Professions Act of South Africa to determine if the Acts are within the professional scope.

22. What practice limitations do I have as a supervised medical practitioner.

The indirect supervised practitioners can perform professional duties provided that he/she shall has nominated the supervisor who will confirm that he/she will be readily available to allow for regular interaction with the candidate and face-to-face contact and attendance of on-site observations of interventions with patients at least regularly.

23. If I should open my private practice, which business models are acceptable with the HPCSA

a) Solo Practice

b) Partnerships/Groups/Organisations

c) Associations

d) Personal liability companies (incorporated practices – Inc.)

e) Franchises (subject to compliance with the ethical rules)

Any of the above who outsourced their administration or established a company to manage the administration provided that such arrangement is not in violation of the established ethical rules of Council.

Any other business model/formation or structure outside of these models must come to HPCSA for consideration or approval by the HPCSA.

24. Do non-registered persons allowed to operate medical device in South Africa

Section 39 of the Health Professions Act, 1974 prohibit performance of certain defined acts by unregistered persons deemed to pertain to health professions registrable in terms of this Act, bearing in mind that there are other Council the republic where practitioners are also bound to their scope e.g. Nursing Council, AHPCSA etc. established according to their respective acts.

25. Is it unethical to pay a management fee to a practice management company or trust based on a set percentage of turnover of the practice?

It is unacceptable for the practitioner to receive payment and commission payment based on the proportion of the percentage of the capital amount collected revenue.

26. Who is authorised to prescribe medication?

Any practitioner with licensed in terms of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965) may dispense medicine according to approved terms and conditions.

27. Can the patient report be submitted to the third party without patient consent?

A Psychologist shall safeguard the confidential information obtained in the course of his or her practice, teaching, research or other professional duties, subject only to such exceptions to the requirement of confidentiality as may be determined by law or a court of law.

A practitioner may disclose confidential information to other persons only with the written, informed consent of the client concerned.

A psychologist may, in any written report, oral report or consultations with a third party, disclose only such information as is relevant to the purpose for which that communication is made and may discuss confidential information obtained in his or her work only for appropriate scientific or professional purposes and then only with persons with a legitimate interest in such matters.

28. Can a medical practitioner sign his family's death certificate?

The Council has ethical ruling of the same subject, see extracts below:

“Ordinance 70 provided that the confirmatory medical certificate required in terms of ordinance 65(c), if not given by the medical referee, shall be given by a medical practitioner of not less than five years' standing who is neither a relative of the deceased, nor a relative, partner or assistant of the medical practitioner furnishing the medical certificate required in terms of ordinance 65(b).”