

**Ethical Rules of conduct for practitioners registered in terms of the Health Professions Act, 1974**

**23. Medicine and medical devices**

[Heading substituted by GN R68/2009]

- (1) 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.  
[Subrule (1) substituted by GN R68/2009]
- (2) 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.  
[Subrule (2) substituted by GN R68/2009]
- (3) The provisions of subrules (1) and (2) shall not prohibit a practitioner from -
  - (a) owning shares in a listed company;
  - (b) manufacturing or marketing medicines whilst employed by a pharmaceutical concern;
  - (c) whilst employed by a pharmaceutical concern in any particular capacity, performing such duties as are normally in accordance with such employment; or
  - (d) dispensing in terms of a licence issued in terms of the Medicines and Related Substances Act, 1965.
- (4) A practitioner referred to in subrule (3) shall display a conspicuous notice in his or her waiting room and also duly inform his or her patient about the fact that he or she-
  - (a) owns shares or has a financial interest in a listed public company that manufactures or markets the medicine or medical device prescribed for that patient; or

- (b) is in the employ of or contractually engaged by the pharmaceutical or medical device company that manufactures such medicine or medical device, and shall, subject to subrule (5), obtain the patient's informed written consent prior to prescribing such medicine or medical device for that patient.

[Subrule (4) substituted by GN R68/2009]

- (5) A practitioner may prescribe or supply medicine or a medical device to a patient: Provided that such practitioner has ascertained the diagnosis of the patient concerned through a personal examination of the patient or by virtue of a report by another practitioner under whose treatment the patient is or has been and such medicine or medical device is clinically indicated, taking into account the diagnosis and the individual prognosis of the patient, and affords the best possible care at a cost-effective rate compared to other available medicines or medical devices and the patient is informed of such other available medicines or medical devices.

[Subrule (5) substituted by GN R68/2009]

- (6) In the case of a patient with a chronic disease the provision of subrule (5) shall not apply.

#### **1. 23A. Financial interests in hospitals**

A practitioner may have a direct or indirect financial interest or shares in a hospital or any other health care institution: Provided that -

- (a) such interests or shares are purchased at market-related prices in arm's length transactions;
- (b) the purchase transaction or ownership of such interest or shares does not impose conditions or terms upon the practitioner that will detract from the good, ethical and safe practice of his or her profession;
- (c) the returns on investment or payment of dividends is not based on patient admissions or meeting particular targets in terms of servicing patients;
- (d) such practitioner does not over-service patients and to this end establishes appropriate peer review and clinical governance procedures for the treatment and servicing of his or her patients at such hospital or health care institution;
- (e) such practitioner does not participate in the advertising or promotion of the hospital or health care institution, or in any other activity that amounts to such advertising or promotion;
- (f) such practitioner does not engage in or advocate the preferential use of such hospital or health care institution;
- (g) the purchase agreement is approved by the council based on the criteria listed in paragraphs (a) to (f) above; and

- (h) such practitioner annually submit a report to the council indicating the number of patients referred by him or her or his or her associates or partners to such hospital or health care institution and the number of patients referred to other hospitals in which he or she or his or her associates or partners hold no shares.

[Rule 23A inserted by GN R68/2009]