

## Government Gazette

Vol. 411, No. 20444, 10 September 1999

Regulation Gazette, No. 6628

No. R. 1085

GOVERNMENT NOTICE

DEPARTMENT OF HEALTH

PHARMACY ACT, 1974 (ACT NO. 53 OF 1974)

### REGULATIONS RELATING TO THE CONDUCT OF INQUIRIES HELD IN TERMS OF CHAPTER V OF THE ACT

The Minister of Health intends, in terms of section 49(1)(o) of the Pharmacy Act, 1974 (Act No. 53 of 1974), in consultation with the South African Pharmacy Council, to make the regulations in the Schedule.

Interested persons are invited to submit any substantiated comments on the proposed regulations or representations they wish to make in regard thereto to the Director-General of Health, Private Bag X828, Pretoria, 0001 (for the attention of the Chief Director: Pharmaceutical Services), within two months of the date of publication of this notice.

#### SCHEDULE

##### Definitions

1. In these regulations, any expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context otherwise indicates:

"**committee of formal inquiry**" means a committee appointed by the council in terms of section 4 of the Act to conduct formal inquiries in terms of chapter IV of these regulations: Provided that no person who served on the committee of preliminary investigation or the committee of informal inquiry in connection with a complaint may serve on the committee of formal inquiry in respect of the same complaint;

"**committee of informal inquiry**" means a committee appointed by the council in terms of section 4 of the Act to conduct informal inquiries in terms of chapter III of these regulations: Provided that no person who served on the committee of preliminary investigation in connection with a complaint may serve on the committee of informal inquiry in respect of such a complaint;

"**committee of preliminary investigation**" means a committee appointed by the council in terms of section 4 of the Act to conduct a preliminary investigation in terms of chapter II of these regulations;

"**complaint**" means any information regarding the unprofessional conduct by a person registered in terms of the Act, which comes to the attention of the registrar or the council, or a complaint, charge or allegation of unprofessional conduct against such person;

"**consent order**" means the finding made and the penalty imposed by the committee of informal inquiry in terms of an agreement between itself, the *pro forma* complainant and the respondent, which shall be worded in the format determined in Annexure A1;

"**formal inquiry**" means a formal hearing by the committee of formal inquiry for adjudicating a complaint against a person registered in terms of the Act on the basis set out in chapter IV of these regulations;

"**informal inquiry**" means an informal and cost-effective peer review process by the committee of informal inquiry which allows for a complaint against a person registered in terms of the Act being resolved by means of negotiation on the basis set out in chapter I of these regulations;

"**preliminary investigation**" means the assessment of a complaint by the committee of preliminary investigation on the basis as set out in chapter II of these regulations for the purpose of deciding whether the complaint should be the subject of an informal or formal inquiry;

"**pro forma complainant**" means the person appointed by the committee of preliminary investigation to represent the actual complainant and to present the complaint to the relevant committee in an informal or formal inquiry in terms of these regulations;

"**respondent**" means a person registered in terms of the Act whose conduct is the subject of a preliminary investigation, informal- and/or formal inquiry in terms of these regulations;

"**the Act**" means the Pharmacy Act, 1974 (Act No. 53 of 1974).

## Chapter I

### Investigation of a complaint

2. A complaint shall be investigated in accordance with these regulations.
3. The registrar shall:
  - (1) if he or she deems it necessary, before acting in terms of regulation 2 or before referring a complaint to the committee of preliminary investigation, be entitled to:
    - a. consult with or seek further information regarding the complaint from any person, including the respondent;
    - b. subpoena any person who on reasonable grounds is believed to be in possession of a document, photo, computer record, contract, book, item, article, administrative or financial record or computer data relevant to the complaint in order to make same available to the registrar before the date determined by the registrar in the subpoena (Annexure C) for the purpose of investigating a complaint in terms of these regulations;
    - c. appoint a person in terms of section 38A of the Act to enter any business premises during business hours in order to obtain documents, photos, computer records, contracts, books, items, articles, administrative or financial records or computer data relevant to the complaint: Provided that the person so appointed shall:
      - i. present written proof of his or her appointment to the person apparently in charge of such premises at the time of his or her visit;
      - ii. explain the nature of the complaint and the purpose of his or her visit to the person referred to in subparagraph (i);
      - iii. restrict his or her investigation and seizure referred to in subparagraph (iv) to evidence relevant to the complaint;
      - iv. prepare an inventory of anything legally seized in terms of these regulations and require the person apparently in charge of such premises at the time of his or her visit to counter-sign such an inventory;
      - v. where possible, ensure that a copy of the inventory referred to in subparagraph (iv) is given to the respondent;
    - d. seek legal advice or other assistance regarding the complaint;
  - (2) if he or she is of the opinion that the complaint constitutes *prima facie* proof of unprofessional conduct, inform the respondent in writing of the nature of the complaint and furnish such particulars regarding the complaint as is available and request the respondent to respond in writing to such complaint and furnish reasons why he or she is of the opinion that the complaint does not constitute unprofessional conduct, before a date determined by the registrar, and warn the respondent that his or her written response and reasons may be used as evidence at any subsequent preliminary, informal or formal inquiry.
  - (3) on the request of the complainant furnish the complainant with a copy of the respondent's reply if the registrar received a response from the respondent or, in the absence of such request, at his or her discretion;
4. The registrar shall after having investigated the complaint in terms of regulation 3, notwithstanding whether or not a response was received from the respondent as referred to in regulation 3(2), be entitled:
  - (1) if he or she is of the opinion that a further inquiry in terms of these regulations would not be appropriate, to inform the complainant and the respondent, where applicable, accordingly;
  - (2) if he or she is of the opinion that further inquiry in terms of these regulations would be appropriate, to refer the matter to the committee of preliminary investigation with the relevant documentation and his or her recommendation as to whether or not the complaint should proceed to an informal or formal inquiry.

## Chapter II

### Preliminary investigation

5. If the committee of preliminary investigation receives a complaint from the registrar, it shall be entitled to:

- (1) (a) consult with or seek further information regarding the complaint from any person, including the respondent;
- b. subpoena any person who on reasonable grounds is believed to be in possession of a document, photo, computer record, contract, book, item, article, administrative or financial record or computer data relevant to the complaint to make same available to the committee of preliminary investigation before the date determined by the registrar in the subpoena (Annexure C) for the purpose of investigating such a complaint in terms of these regulations;
- c. appoint a person in terms of section 38A of the Act to enter any business premises during business hours in order to obtain documents, photos, computer records, contracts, books, items, articles, administrative or financial records or computer data relevant to the complaint: Provided that the person so appointed shall:
  - i. present written proof of his or her appointment to the person apparently in charge of such premises at the time of his or her visit;
  - ii. explain the nature of the complaint and the purpose of his or her visit to the person referred to in subparagraph (i);
  - iii. restrict his or her investigation and seizure referred to in subparagraph (iv) to evidence relevant to the complaint;
  - iv. prepare an inventory of anything legally seized in terms of these regulations and require the person apparently in charge of such premises at the time of his or her visit to counter-sign such an inventory;
  - v. where possible, ensure that a copy of the inventory referred to in subparagraph (iv) is given to the respondent.
- d. seek legal advice or other assistance regarding the complaint;

(2) if it is of the opinion that the complaint constitutes *prima facie* proof of unprofessional conduct, inform the respondent in writing of the nature of the complaint and furnish such particulars regarding the complaint as is available and request the respondent to respond in writing to such complaint and furnish reasons why he or she is of the opinion that the complaint does not constitute unprofessional conduct, before a date determined by the committee of preliminary investigation, and warn the respondent that his or her written response and reasons may be used as evidence at any subsequent informal or formal inquiry.

6. The committee of preliminary investigation shall take the following factors into consideration in deciding whether it would be appropriate to hold an informal or formal inquiry:

- a. the nature of the complaint;
- b. the consequences of the alleged unprofessional conduct of the respondent for the complainant, the general public, the council, the respondent, the pharmacy profession and/or any other interested parties;
- c. the complexity of the unprofessional conduct complained of;
- d. the penalty which the committee of preliminary investigation foresees could be imposed by the committee of informal inquiry or the committee of formal inquiry if the respondent is found guilty of unprofessional conduct; and
- e. any other matter not referred to in paragraphs (a) to (d), which in the opinion of the committee of preliminary investigation warrants the holding of an informal inquiry or a formal inquiry in terms of these regulations.

7. The committee of preliminary investigation, after having investigated the complaint and after having considered the recommendation of the registrar referred to in regulation 4(2), whether or not a response is received from the respondent as referred to in regulation 5(2), shall:

(1) if it is of the opinion that a further inquiry in terms of these regulations would not be appropriate, inform the complainant and the respondent, where applicable, accordingly;

(2) if it is of the opinion that it would be appropriate to hold an informal inquiry:

- a. prepare a notice in the format determined in Annexure A in terms of which the respondent is notified to attend an informal inquiry at a time, date and venue as indicated by the *pro forma* complainant in such notice;
- b. appoint a *pro forma* complainant to represent the actual complainant and present the complaint in an informal inquiry in terms of these regulations;
- c. instruct the committee of informal inquiry in writing to hold an informal inquiry at a time, date and venue

as indicated by the *pro forma* complainant in the notice referred to in paragraph (a).

- (3) if it is of the opinion that it would be appropriate to hold a formal inquiry:
- a. appoint a *pro forma* complainant to represent the actual complainant and present the complaint in a formal inquiry in terms of these regulations, with a right to appoint a legal representative to assist him or her;
  - b. instruct the committee of formal inquiry in writing to hold a formal inquiry in terms of these regulations.

### **Chapter III**

#### **Informal inquiry**

8. The *pro forma* complainant appointed in terms of regulation 6(2)(b) shall:
- a. determine a date, time and venue for the informal inquiry;
  - b. submit a notice referred to in regulation 6(2)(a) to the respondent by registered post addressed to his or her last known registered address and furnish the respondent with such relevant documents not previously furnished to him or her;
  - c. furnish the members of the committee of informal inquiry with a copy of the notice and copies of all the relevant documents.
9. The respondent shall be entitled to exercise one of the following three options:
- (1) if he or she agrees with the contents of the proposed consent order attached to the notice, he or she shall complete and sign it before a commissioner of oaths and return it to the committee of informal inquiry before the date of the informal inquiry in which case the committee of informal inquiry will on the date scheduled for such inquiry make a finding and impose a penalty in accordance with the consent order;
  - (2) If he or she disagrees with the contents of the proposed consent order, attached to the notice and prefer to present his or her case to the committee of informal inquiry, he or she shall:
    - a. complete Annexure A2, sign and return it to the committee of informal inquiry before the date of the informal inquiry; and
    - b. appear in person at the informal inquiry to:
      - i. hand in written submissions to the committee of informal inquiry; or
      - ii. lead oral evidence; or
      - iii. present argument;in order to amend the contents of the consent order;
  - (3) if he or she prefers that the complaint be adjudicated by the committee of formal inquiry he or she shall complete Annexure A3, sign and return it to the committee of informal inquiry before the date of the informal inquiry, in which case the matter shall on the date scheduled for such inquiry be referred to the committee of formal inquiry to be dealt with in accordance with the procedure determined in chapter IV of these regulations.
10. If the respondent fails to exercise any of the options in regulation 8, or fails to respond to the notice referred to in regulation 7, the committee of informal inquiry shall refer the matter to the committee of formal inquiry to adjudicate the complaint in accordance with the procedure determined in chapter IV of these regulations.
11. On the date determined for an informal inquiry the committee of informal inquiry shall:
- (1) if the respondent has elected to proceed in terms of regulation 9(1), make a finding and impose a penalty in accordance with the consent order signed by the respondent and instruct the *pro forma* complainant to inform the respondent accordingly;
  - (2) if the respondent elects to proceed in terms of regulation 9(2), proceed to hold an informal inquiry in terms of this chapter;
  - (3) if the respondent elects to proceed in terms of regulation 9(3), refer the matter to the committee of formal inquiry to be dealt with in accordance with the procedure determined in chapter IV of these regulations.
12. The *pro forma* complainant and the respondent shall be entitled to request the registrar to summon all persons whom they wish to testify as witnesses on their behalf at the informal inquiry, in terms of a subpoena which shall be in the same format as determined in Annexure C.

13. The informal inquiry shall take the format of an inquisitorial investigation: Provided that both the *pro forma* complainant and the respondent shall be given an opportunity to present his or her case by means of written submissions, oral evidence and argument: Provided further that neither the *pro forma* complainant nor the respondent shall be entitled to legal representation at the informal inquiry.
14. The committee of informal inquiry shall, at the completion of an informal inquiry:
  - (1) if it is able to negotiate a consent order acceptable to the *pro forma* complainant, the respondent and the committee of informal inquiry, draft a consent order as agreed, which shall be worded in the format determined in Annexure AI, request the respondent and the *pro forma* complainant to sign such a consent order, make a finding and impose the penalty agreed to in the consent order;
  - (2) if it is unable to negotiate a consent order acceptable to the *pro forma* complainant, the respondent and the committee of informal inquiry, instruct the committee of formal inquiry in writing to hold a formal inquiry into the complaint against the respondent.
15. No finding made or penalty imposed by the committee of informal inquiry in terms of a consent order referred to in regulation 12(1) shall constitute a previous conviction in any subsequent inquiry of a complaint against the respondent in terms of these regulations.

#### **Chapter IV**

##### **Formal inquiry**

16. Once the committee of preliminary investigation or the committee of informal inquiry has referred a complaint to the committee of formal inquiry, the *pro forma* complainant appointed in terms of regulation 6(2)(b) shall:
  - (1) determine a date, time and venue for the formal inquiry;
  - (2) prepare a notice in the format determined in Annexure B. in terms of which the respondent is notified to attend a formal inquiry at a time, date and venue indicated by the *pro forma* complainant in such notice;
  - (3) inform the members of the committee of formal inquiry accordingly and furnish them with a copy of the notice and all relevant documents.
17. The notice referred to in regulation 14(2) shall be served on the respondent or mailed to him or her at his or her last known registered address by prepaid registered post.
18. The *pro forma* complainant and the respondent shall be entitled to request the registrar to summon all persons whom they wish to testify as witnesses on their behalf at the formal inquiry, in terms of a subpoena which shall be in the same format as determined in Annexure C.
19. If witnesses are summoned at the instance of the respondent, the registrar may require the respondent to deposit a sum of money with the council sufficient cover the fees and expenses referred to in regulation 18.
20. The party at whose request a witness is subpoenaed to appear and give testimony at a formal inquiry shall be liable to pay fees according to the tariff applicable to civil cases in a Magistrate's court and compensate such witness for any reasonable expenses which had to be incurred in order to attend the formal inquiry.
21. The committee of formal inquiry shall appoint a chairperson from its members.
22. At a formal inquiry held in terms of these regulations the procedure set out below shall be followed.
23. The *pro forma* complainant shall read out the notice addressed to the respondent, unless the respondent is absent or the respondent or his or her legal representative indicates that it is not required.
24. The respondent or, if he or she is not present, his or her legal representative shall be asked by the chairperson of the committee of formal inquiry to plead guilty or not guilty to the charge, and the plea shall be recorded.
25. The *pro forma* complainant and the respondent shall both be given the opportunity of concisely summarising the complaint and the defence thereto, respectively.
26. If a plea of guilty is entered and the committee of formal inquiry is of the opinion that further information is required for purposes of coming to a finding on whether the complaint constitutes unprofessional conduct on the part of the respondent, it shall be entitled to call any of the witnesses summoned on behalf of the *pro forma* complainant or the respondent to give oral evidence on oath or affirmation and to accept any documentary evidence relevant to the complaint which it deems necessary, before coming to a finding.

27. If the respondent, or his or her legal representative, refuses or fails to plead directly to the charge, this shall be recorded and a plea of not guilty shall be entered, and a plea so entered shall have the same result as if it had in fact been so pleaded.
28. In the case of a plea of not guilty, first the *pro forma* complainant, and thereafter the respondent, shall be given the opportunity of leading evidence in support of the complaint and the defence, respectively.
29. If the respondent is neither present nor represented, his or her written defence, statement(s) or explanations made by him or her or on his or her behalf before the formal inquiry, if any, shall constitute his or her defence and shall be submitted by the *pro forma* complainant to the committee of formal Inquiry.
30. The committee of formal inquiry may, after the parties have closed their cases, in its discretion:
  - (1) allow further evidence to be led;
  - (2) recall witnesses lead by either the *pro forma* complainant, or the respondent.
31. The committee of formal inquiry may in its discretion call further witnesses or recall a witness to be questioned by members of the committee of formal inquiry, thereafter by the respondent and then by the *pro forma* complainant or their legal representatives.
32. The chairperson of the committee of formal inquiry:
  - (1) may put questions to any witness called on behalf of or by the *pro forma* complainant or respondent and allow other members of the committee of formal inquiry to put questions to such a witness;
  - (2) shall before re-examination of such witness by the party who called such witness, allow further cross-examination arising from questions put by the chairperson and other members;
  - (3) shall, after the cross-examination referred to in regulation 30(2), allow the party who called the witness an opportunity to re-examine the witness on matters raised in cross-examination or with regard to questions put to such a witness by the chairperson or other members of the committee of formal inquiry.
33. After all evidence has been lead:
  - (1) the *pro forma* complainant shall be given an opportunity to address the committee of formal inquiry on the evidence and the legal position;
  - (2) the respondent or his or her representative shall thereafter likewise be given an opportunity to address the committee of formal inquiry;
  - (3) the *pro forma* complainant shall be given an opportunity to reply to the arguments raised by or on behalf of the respondent.
34. If the respondent, or his or her legal representative, is not present at the formal inquiry, it shall proceed in the respondent's absence and a plea of not guilty shall be entered, unless the respondent has in writing pleaded guilty to the charge against him or her, in which case it shall be entered as his or her plea.
35. All oral evidence shall be taken on oath or affirmation by the chairperson of the committee of formal inquiry.
36. Evidence on affidavit shall be admissible on the basis determined in the Civil Proceedings Evidence Act, 1965 (Act No. 25 of 1965), or any common law principle applicable to civil litigation.
37. The record or any part thereof, of a lawfully constituted court, inquest or statutory body shall be accepted as *prima facie* evidence if it has been certified to be a true copy: Provided that if it is practicable and appears just, the committee of formal inquiry may call a witness whose evidence appears in such record to give evidence at the formal inquiry.
38. Upon the conclusion of the formal inquiry, the committee of formal inquiry shall deliberate *in camera* on a finding.
39. If a respondent is found not guilty of the complaint made against him or her, he or she shall be informed accordingly forthwith and the committee of formal inquiry shall report its finding to the council.;
40. If the committee of formal inquiry determines that sufficient facts were presented during the formal inquiry which proved the complaint, it shall decide whether the complaint constitutes unprofessional conduct, or conduct which, when regard is had to the respondent's profession, is unprofessional, and it shall announce its finding in open meeting.
41. If a respondent is found guilty by the committee of formal inquiry, the *pro forma* complainant shall adduce evidence of

previous convictions, excluding a finding or penalty imposed by the committee of informal inquiry, of the respondent under the Act, if such convictions are recorded against the respondent in the records of the registrar: Provided that notice of the intention to do so was given to the respondent by the *pro forma* complainant prior to the commencement of the inquiry.

42. Evidence of previous convictions referred to in regulation 39 shall be adduced by means of a certificate under the hand of the registrar indicating the nature of the complaint against the respondent at the time, the finding, the date of such finding and the penalty imposed.
43. A respondent shall be entitled to challenge the correctness of a certificate referred to in regulation 40, in which case a copy of the relevant record in the possession of the registrar and the minutes of the meeting of the council at which the finding and the penalty were confirmed or reported shall be produced, after which the fact of conviction shall be regarded as proof.
44. The respondent may, after proof of previous convictions by the *pro forma* complainant, if any, address the committee of formal inquiry or adduce evidence, either orally or in writing, in mitigation of a penalty to be imposed.
45. Any witnesses called in mitigation may be questioned by the members of the committee of formal inquiry and the *pro forma* complainant.
46. The *pro forma* complainant shall, after the respondent addressed the committee of formal inquiry or adduced evidence in mitigation of a penalty to be imposed, be given the opportunity to make representations to the committee of formal inquiry or lead evidence, either orally or in writing, regarding a suitable penalty to be imposed.
47. If the respondent is neither present nor represented, any written representation, statement or explanation made by him or her or on his or her behalf, which have a bearing on a penalty, shall be taken into account by the committee of formal inquiry.
48. The committee of formal inquiry shall deliberate in *camera* upon a penalty to be imposed and a cost order, referred to in section 40(3) of the Act, to be made.
49. The chairperson of the committee of formal inquiry shall announce the finding, the penalty imposed and the cost order made, if applicable, in open meeting.
50. The committee of formal inquiry shall report its finding, the penalty imposed and the cost order made, if any, to the council.
51. The registrar shall arrange for the publication in any one of the official languages in the *Gazette* and in the council's report of the name of the respondent, a summary of the complaint of which he or she has been found guilty, and the penalty which has been imposed.
52. The committee of formal inquiry may appoint and remunerate a person with experience in the administration of justice to be present at any inquiry -
  - (1) as an assessor; and/or
  - (2) to advise the committee of formal inquiry on matters of law, procedure and evidence.
53. Any decision of the committee of formal inquiry in regard to any point arising in connection with, or in the course of, an inquiry shall be communicated to the persons concerned during such an inquiry.
54. The committee of formal inquiry may, of its own accord or at the request of the *pro forma* complainant or of the respondent or his or her legal representative, adjourn any inquiry being held in terms of these regulations, to be resumed at such date, time and place as the committee of formal inquiry may determine or as the registrar may by registered post communicate to the parties concerned.

## **Chapter V**

### **General**

55. Nothing in these regulations shall be construed as withdrawing from the council the right and power to deal with any complaint without referring it to the committee of preliminary investigation, informal inquiry or formal inquiry.
56. A disciplinary inquiry in terms of the regulations promulgated under Government Notice No. R. 353 of 2 March 1984 which commenced before a disciplinary committee immediately prior to the commencement of these regulations shall be conducted according to the procedures prescribed by the first-mentioned regulations as if they have not been withdrawn.

57. The regulations promulgated under Government Notice No. R. 353 of 2 March 1984 are hereby withdrawn.

**DR M.E. TSHABALAL-MSIMANG**  
**MINISTER OF HEALTH**  
**DATE:**

**ANNEXURE A**  
**THE SOUTH AFRICAN PHARMACY COUNCIL**

Case no:.....

In the matter between:

**The *pro forma* complainant**

and

..... (hereinafter referred to as "the respondent")

---

**NOTICE TO ATTEND INFORMAL INQUIRY**

---

1. The respondent is hereby summoned to appear before the committee of informal inquiry of the South African Pharmacy Council at ..... (time) on ..... (date) at 3<sup>rd</sup> floor SA Pharmacy Council Building, 591 Belvedere Street, Arcadia, 0083, to answer to the following complaint(s):

.....  
.....  
.....  
[Add particulars of complaint(s)]

2. The respondent can make use of one of the following options:

(1) Consent to finding and penalty

The respondent is entitled to consent to the committee of informal inquiry making the finding and imposing the penalty proposed in Annexure A1 by signing it before a commissioner of oaths and returning it to the *pro forma* complainant at the address indicated in Annexure A1, to reach the *pro forma* complainant before the date of the informal inquiry.

In the event of the respondent electing to consent to the proposed finding and penalty proposed in Annexure A1, and if such penalty involves the payment of a fine the respondent must submit one of the following with Annexure A1 to the *pro forma* complainant at the address indicated in Annexure A1:

a. Proof of payment (copy of deposit slip / electronic bank transfer) into the following account of the South African Pharmacy Council:

Bank :  
Branch :  
Branch code :  
Account number :

b. postal order or cheque;

c. credit card authorisation; or

d. a written request to pay the fine and/or the costs indicated in Annexure A1 in instalments.

(2) Notice of intention to appear at informal inquiry

The respondent is entitled to give notice in terms of Annexure A2 that he or she shall attend the informal inquiry in person at the appointed time and date to avail him or herself of his or her rights in terms of Chapter III of the Regulations relating to the conduct of inquiries held in terms of chapter V of the Act (hereinafter referred to as "The Regulations") of which a copy is attached hereto.

Please note that in terms of regulation 11 of the Regulations neither the *pro forma* complainant nor the respondent are entitled to legal representation at the informal inquiry.

(3) Notice of intention to proceed to formal inquiry

The respondent is entitled to give notice in terms of Annexure AS that he or she prefers that the complaint be adjudicated by the committee of formal inquiry in terms of chapter IV of the Regulations.

Please note that both the *pro forma* complainant and the respondent are entitled to legal representation at the formal inquiry.

3. General information regarding the options listed in paragraph 2

(1) In the event of the respondent electing to consent to the finding and penalty referred to in paragraph 2(1), the committee of informal inquiry shall, on the date set for the informal inquiry, make the finding and impose the penalty determined in Annexure A1: Provided that such finding shall not constitute a previous conviction for purposes of regulation 39 of the Regulations in any subsequent inquiry into unprofessional conduct of the respondent.

(2) In the event of the respondent electing to appear at the informal inquiry referred to in paragraph 2(2), the committee of informal inquiry shall on the date set for the informal inquiry:

- a. deal with the complaint(s) in accordance with the procedure determined in chapter III of the Regulations;
- b. make a finding on whether the facts proved to its satisfaction, constitutes unprofessional conduct;
- c. impose one of the penalties prescribed in section 45(1) of the Pharmacy Act, 1974 (Act No. 53 of 1974) (hereinafter referred to as "the Act") if it finds that the facts proved constitute unprofessional conduct;
- d. make an order as to costs in terms of section 40(3) of the Act; or
- e. refer the matter for a formal inquiry by the committee of formal inquiry.

(3) In the event of the respondent electing to proceed to a formal inquiry referred to in paragraph 2(3), the committee of informal inquiry shall, on the date set for the informal inquiry instruct the committee of formal inquiry to hold a formal inquiry, on the date, time and place and on such complaint(s) as the *pro forma* complainant may decide and of which the respondent will in due course be notified of.

(4) In the event of the respondent failing to respond to this notice or to exercise an option referred to in paragraphs 2(1) to (3), the committee of informal inquiry shall on the date set for the informal inquiry refer the matter to the committee of formal inquiry to adjudicate the complaint in accordance with the procedure determined in chapter IV of the Regulations.

4. The respondent is hereby referred to the provisions of section 45B of the Act regarding the recovery of fines and cost orders.

Issued at Pretoria on ..... by the *pro forma* complainant

-----  
***Pro forma complainant***

**ANNEXURE A1**

**THE SOUTH AFRICAN PHARMACY COUNCIL**

Case no:.....

In the matter between:

**The *pro forma* complainant**

and

..... (hereinafter referred to as "the

respondent")

**CONSENT ORDER**

1. I, the undersigned

.....  
.....

(full names)

Identity .....  
number:

Residing .....  
at: .....

.....  
.....

hereby consent to the committee of informal inquiry:

a. finding that the conduct that I have been charged with constitutes unprofessional conduct by me, in my capacity as a pharmacist;

b. imposing the following penalty:

.....  
.....  
.....

c. making the following cost order:

"The respondent is ordered to pay the following costs:

Notice: **R** .....

Informal inquiry costs: **R** .....

Total: **R** .....

2. I attach hereto:

- Proof of direct payment into the bank account of the South African Pharmacy Council;
- postal order / cheque; or
- authorisation to the registrar of the Pharmacy Council of South Africa to debit my credit card, account number
- VISA                      ■ MASTER

Expiry date

Signed at ..... on  
.....

-----  
Respondent

Signed at ..... on  
..... by the respondent before me as  
commissioner of oaths, after having satisfied myself as to the identity of the signatory and of the fact that the respondent  
knows and understands the contents of this document and the effect thereof.

**Commissioner of oaths**

**Note:** Consent order to be submitted by the respondent to the *pro forma* complainant at the following address:

Full names: .....

Physical address: .....

Telephone (.....) no: .....

**ANNEXURE A2**

**THE SOUTH AFRICAN PHARMACY COUNCIL**

Case no:.....

In the matter between:

**The *pro forma* complainant**

and

..... (hereinafter referred to as "the respondent")

---

**NOTICE OF INTENTION TO APPEAR AT INFORMAL INQUIRY**

---

1. Take notice that the respondent intends to appear in person before the committee of informal inquiry of the South African Pharmacy Council at ..... (time) on ..... (date) at 3<sup>rd</sup> Floor, SA Pharmacy Council Building, 591 Belvedere Street, Arcadia, 0007, to present his or her defence.
2. Take further notice that the respondent intends calling the following witnesses:

Full names:	Postal address	Physical address	Telephone no:
1 .			
2 .			
3 .			

and requests the registrar to *subpoena* these witnesses.

Signed at ..... on .....

-----  
**Respondent**

**Note:** Notice to be submitted by the respondent to:

- a. The committee of informal inquiry  
The South African Pharmacy Council  
P.O. Box 40040  
Arcadia  
0007
- AND

- b. The *pro forma* complainant  
P.O. Box 40040  
Arcadia  
0007

**ANNEXURE A3**

**THE SOUTH AFRICAN PHARMACY COUNCIL**

Case no:.....

In the matter between:

**The *pro forma* complainant**

and

..... (hereinafter referred to as "the respondent")

---

**NOTICE OF INTENTION TO PROCEED TO FORMAL INQUIRY**

---

The respondent hereby requests the committee of informal inquiry to refer the complaint to the committee of formal inquiry in terms of chapter IV of the Regulations relating to the conduct of inquiries held in terms of chapter V of to Act.

Signed at ..... on  
.....

-----  
**Respondent**

**Note:** Notice to be submitted by the respondent to:

- a. The committee of informal inquiry  
The South African Pharmacy Council  
P.O. Box 40040  
Arcadia  
0007

AND

- b. The *pro forma* complainant  
P.O. Box 40040  
Arcadia  
0007

**ANNEXURE B**

**THE SOUTH AFRICAN PHARMACY COUNCIL**

Case no:.....

In the matter between:

**The *pro forma* complainant**

and

..... (hereinafter referred to as "the respondent")

**NOTICE TO RESPONDENT TO ATTEND FORMAL INQUIRY**

You are hereby notified that the Pharmacy Council of South Africa (hereinafter referred to as "the council") or the committee of formal inquiry of the council intends to hold a formal inquiry on the

..... day of  
..... at  
..... (time) .....  
..... (address) when the following complaint(s) which has/have been made against you will be considered:

"That you being a pharmacist, duly registered in terms of the Pharmacy Act, 1974 (Act No. 53 of 1974) (hereinafter referred to as "the Act"), are guilty of unprofessional conduct in that you

.....  
.....

In terms of section 40(2) of the Act, you are entitled to attend the formal inquiry and to answer the complaint(s) and be heard in your defence, either by yourself or through your legal representative. Should you fail to appear, the council or the committee of formal inquiry may consider and deal with the complaint(s) in accordance with chapter IV of the Regulations relating to the conduct of inquiries held in terms of chapter V of the Act (hereinafter referred to as "the Regulations").

Should you desire your letter dated ..... or any further written communication which you wish to make to constitute your explanation or defence, please inform me in writing to that effect as soon as possible but not later than ..... but you are hereby warned that any such communication may be used in evidence.

A copy of the Regulations is enclosed.

Given on ..... at ..... by the *pro forma* complainant.

-----  
***Pro forma* complainant**

**ANNEXURE C**

**THE SOUTH AFRICAN PHARMACY COUNCIL**

Case no:.....

In the matter between:

**The *pro forma* complainant**

and

..... (hereinafter referred to as "the respondent")

**SUMMONS TO APPEAR BEFORE THE COMMITTEE OF PRELIMINARY INVESTIGATION OR THE COMMITTEE OF INFORMAL- OR FORMAL INQUIRY OF THE SOUTH AFRICAN PHARMACY COUNCIL AND/OR TO PRODUCE DOCUMENTARY EVIDENCE IN TERMS OF THE REGULATIONS RELATING TO THE CONDUCT OF INQUIRIES HELD IN TERMS OF CHAPTER V OF THE ACT**

Witness' (postal or physical) address:

.....  
.....

You, ..... (name of witness) are hereby summoned to:

a. appear at ..... (time) on .....(date) at .....  
(place)

before the committee of preliminary investigation or the committee of informal- or formal inquiry of the South African Pharmacy Council (hereinafter referred to as "the council") established in terms of the Pharmacy Act, 1974 (Act No. 53 of 1974), to give or produce evidence at an \*investigation by the committee of preliminary investigation or at an inquiry by the committee of informal- or formal inquiry;

b. to submit to the registrar before ..... (date) all documents, photos, computer records, contracts, books, items, articles, administrative or financial records or computer data relating to the following complaint(s):  
.....  
.....  
.....

and you are hereby directed to bring with you such documents, photos, computer records, contracts, books, items, articles, administrative or financial records or computer data.

Given on ..... (date) at .....  
(place) under the hand of the registrar of the council.

-----  
**REGISTRAR**

**Official seal**

\* delete whichever is not applicable