



GNR.496 of 8 June 2001: Regulations relating to the conduct of inquiries held in terms of Chapter V of the Act

The Minister of Health has, under section 49 (1) of the Pharmacy Act, 1974 (Act No. 53 of 1974), and in consultation with the South African Pharmacy Council, made the regulations in the Schedule.

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1. Definitions.—In these regulations any word or expression to which a meaning has been assigned in the Act has that 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 a formal inquiry in terms of Chapter IV of these regulations;

“committee of informal inquiry” means a committee appointed by the council in terms of section 4 of the Act to conduct an informal inquiry in terms of Chapter III of these regulations;

“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 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 a 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, as set out in a form substantially corresponding with Annexure A1 to these regulations;

“formal inquiry” means a formal hearing by a committee of formal inquiry to adjudicate a complaint against a person registered in terms of the Act in accordance with Chapter IV of these regulations;

“informal inquiry” means an informal review process by a committee of informal inquiry that allows for a complaint against a person registered in terms of the Act to be resolved by means of negotiation in accordance with Chapter III of these regulations;

“preliminary investigation” means the assessment of a complaint by a committee of preliminary investigation in accordance with Chapter II of these regulations;

“pro forma complainant” means the person appointed in terms of regulation 4 (3) (b) (i) or 4 (3) (c) (i) by the committee of preliminary investigation to represent the actual complainant and to present the complaint to the committee concerned at an informal inquiry or a formal inquiry;

“respondent” means a person registered in terms of the Act whose conduct is the subject of a preliminary investigation, an informal inquiry or a formal inquiry;

“the Act” means the Pharmacy Act, 1974 (Act No. 53 of 1974).

CHAPTER I
INVESTIGATION OF COMPLAINT

2. Investigation.—A complaint must be investigated in accordance with these regulations.

3. Powers of registrar.—

- (1) The registrar may, if he or she has received a complaint in terms of the Act and before referring the complaint to a committee of preliminary investigation—
 - (a) consult with or seek further information regarding the complaint from any person, including the respondent;
 - (b) summon any person whom the registrar on reasonable grounds believes to be in possession of a document, photograph, 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 summons which must substantially correspond with Annexure C to these regulations, for the purpose of investigating the complaint in terms of these regulations;
 - (c) apply to a magistrate of the district in which the respondent practices or carries on business as a pharmacist, for a warrant which must substantially correspond with Annexure D to these regulations, authorising an officer or inspector duly appointed by the council in terms of section 4 (v) of the Act to—
 - (i) enter, either alone or with the assistance of the South African Police Service, the business premises of the respondent or any other premises where business records or medicines belonging to the respondent are kept, which premises must be identified in the warrant;
 - (ii) search such premises for unregistered or illegally acquired medicine, statutory records and other documents required to be kept in terms of the Medicines and Related Substances Control Act, 1965, or the Act that are relevant to the complaint; and
 - (iii) seize and remove from the business or other premises identified in the warrant such medicines, records or documents, after having compiled a complete inventory of the medicines, records or documents and verified the inventory with a person over the age of sixteen years apparently in control of such business or other premises, leaving, when applicable and practicable, copies of records or documents seized and to be removed with that person;
 - (d) seek legal or other advice regarding the complaint.
- (2) The registrar must—
 - (a) 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 are available, and request the respondent to respond, before a date determined by the registrar, in writing to such complaint and give reasons why he or she is of the opinion that the complaint does not constitute unprofessional conduct, and warn the respondent that his or her written response and reasons may be used as evidence at any subsequent preliminary investigation or informal or formal inquiry;

- (b) at 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.
- (3) The registrar must, after having investigated the complaint in terms of sub-regulation (1) or (2), and whether or not a response was received from the respondent as contemplated in sub-regulation (2), if he or she is of the opinion that a further inquiry in terms of these regulations would—
 - (a) not be appropriate, inform the complainant and the respondent accordingly;
 - (b) be appropriate, refer the matter to a committee of preliminary investigation together with the applicable documents and his or her recommendation as to whether or not the complaint should proceed to an informal inquiry or a formal inquiry.

CHAPTER II PRELIMINARY INVESTIGATION

4. Powers of the committee of preliminary investigation.—

- (1) A committee of preliminary investigation may, if it has received a complaint in terms of the Act from the registrar—
 - (a) consult with or seek further information regarding the complaint from any person, including the respondent;
 - (b) summon any person whom it on reasonable grounds believes to be in possession of a document, photograph, 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 committee of preliminary investigation before the date determined by the registrar in the summons, which must substantially correspond with Annexure C to these regulations, for the purpose of investigating the complaint in terms of these regulations;
 - (c) apply to a magistrate of the district in which the respondent practices or carries on business as a pharmacist, to obtain a warrant, which must substantially correspond with Annexure D to these regulations, authorising an officer or inspector duly appointed by the council in terms of section 4 (v) of the Act to—
 - (i) enter, either alone or with the assistance of the South African Police Service, the business premises of the respondent or any other premises where business records or medicines belonging to the respondent are kept, which premises must be identified in the warrant;
 - (ii) search such premises for unregistered or illegally acquired medicine, statutory records and other documents required to be kept in terms of the Medicines and Related Substances Control Act, 1965, or the Act that are relevant to the complaint; and
 - (iii) seize and remove from the business or other premises identified in the warrant such medicines, records or documents after having compiled a complete inventory of the medicines, records or documents and verified the inventory with a person over the age of sixteen years apparently in control of such business or other premises, leaving, when applicable and practicable, copies of the records or documents seized and to be removed with that person;
 - (d) seek legal or other advice regarding the complaint.

- (2) If the committee of preliminary investigation is of the opinion that the complaint constitutes *prima facie* proof of unprofessional conduct, it must inform the respondent in writing of the nature of the complaint and furnish such particulars regarding the complaint as are available and request the respondent to respond, before a date determined by the committee of preliminary investigation, in writing to such complaint and give reasons why he or she is of the opinion that the complaint does not constitute unprofessional conduct, and warn the respondent that his or her written response and reasons may be used as evidence at any subsequent informal or formal inquiry.
- (3) The committee of preliminary investigation, after having investigated the complaint and after having considered the recommendation of the registrar referred to in regulation 3 (3) (b), and whether or not a response was received from the respondent as contemplated in sub-regulation (2), must—
 - (a) 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 accordingly;
 - (b) if it is of the opinion that it would be appropriate to hold an informal inquiry—
 - (i) appoint a *pro forma* complainant;
 - (ii) prepare a notice in a format substantially corresponding with Annexure A to these regulations which notifies the respondent to attend an informal inquiry at a time, on a date and at a venue indicated by the *pro forma* complainant in the notice; and
 - (iii) instruct the committee of informal inquiry in writing to hold an informal inquiry at the time, on the date and at the venue indicated by the *pro forma* complainant in the notice referred to in subparagraph (ii);
 - (c) if it is of the opinion that it would be appropriate to hold a formal inquiry—
 - (i) appoint a *pro forma* complainant who must have the rights to appoint a legal representative to assist him or her; and
 - (ii) instruct the committee of formal inquiry in writing to hold a formal inquiry.

5. Factors to be considered by committee of preliminary investigation.—In deciding whether or not an informal inquiry or a formal inquiry would be appropriate, the committee of preliminary investigation must take into account, amongst other things—

- (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 or any other interested parties;
- (c) the penalty which the committee of preliminary investigation foresees could be imposed by by the committee of informal inquiry or the committee of formal inquiry, as the case may be, if the respondent is found guilty of unprofessional conduct.

CHAPTER III INFORMAL INQUIRY

6. Disqualification of member of committee.—No person who served on the committee of

preliminary investigation in connection with a complaint may serve on a committee of informal inquiry in respect of that complaint.

7. Pro forma complainant.—The *pro forma* complainant appointed in terms of regulation 4 (3) (b) (i) must—

- (a) serve a notice as contemplated in regulation 4 (3) (b) (ii) on the respondent by registered post addressed to his or her last known registered address, together with any applicable documents not previously furnished to him or her; and
- (b) furnish the members of the committee of informal inquiry with a copy of the notice and copies of all the applicable documents.

8. The respondent.—The respondent may—

- (a) if he or she agrees with the contents of the proposed consent order, which must be attached to the notice referred to in regulation 7, 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 the proposed consent order the final consent order; or
- (b) if he or she disagrees with the contents of the proposed consent order, which must be attached to the notice referred to in regulation 7, and prefers to present his or her case to the committee of informal inquiry—
 - (i) complete a form substantially corresponding with Annexure A2 to these regulations and sign and return it to the committee of informal inquiry before the date on which the informal inquiry is scheduled to take place; and
 - (ii) appear in person at the informal inquiry to—
 - (aa) hand in written submissions to the committee of informal inquiry; or
 - (bb) lead oral evidence; or
 - (cc) present argument;—in order to amend the contents of the proposed consent order; or
- (c) if he or she prefers the complaint to be adjudicated by a committee of formal inquiry, complete a form substantially corresponding with Annexure A3 to these regulations and sign and return it to the committee of informal inquiry before the date on which the informal inquiry is scheduled to take place, in which case the matter must, on the date scheduled for the inquiry, be referred to a committee of formal inquiry to be dealt with in accordance with the procedure set out in Chapter IV of these regulations.

9. Respondent's failure to exercise an option.—If the respondent fails to exercise any of the options referred to in regulation 8 or fails to respond to the notice referred to in regulation 4 (3) (b) (ii), the committee of informal inquiry must refer the matter to a committee of formal inquiry to adjudicate the complaint in accordance with the procedure set out in Chapter IV of these regulations.

10. Terms of reference of committee of informal inquiry.—On the date determined for an informal inquiry, the committee of informal inquiry must—

- (a) if the respondent has agreed to the proposed consent order as contemplated in regulation 8 (a), make the proposed consent order a final consent order, confirming the finding and the penalty, and instruct the *pro forma* complainant to inform the respondent accordingly;
- (b) if the respondent has elected to proceed in terms of regulation 8 (b), proceed to hold an informal inquiry;
- (c) if the respondent has elected to proceed in terms of regulation 8 (c), refer the matter to a committee of formal inquiry to be dealt with in accordance with the procedure set out in Chapter IV of these regulations.

11. Summons of witnesses.—

- (1) The *pro forma* complainant and the respondent may request the registrar to summon as witness all persons whom they wish to testify on their behalf at the informal inquiry, by means of a summons substantially corresponding with Annexure C to these regulations.
- (2) If witnesses are summoned at the instance of the respondent, the registrar may require the respondent to deposit with the council a sum of money which is sufficient to cover the fees and expenses referred to in subregulation (3).
- (3) The party at whose request a witness is summoned to appear and testimony at an informal inquiry is 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 he or she may have incurred in order to attend the informal inquiry.

12. Format of inquiry.—

- (1) The informal inquiry must take the form of an inquisitorial investigation and the *pro forma* complainant and the respondent must be given an opportunity to present their respective cases by means of written submissions, oral evidence or argument.
- (2) Neither the *pro forma* complainant nor the respondent is entitled to legal representation at the informal inquiry.

13. Findings by committee of informal inquiry.—

- (1) The committee of informal inquiry, at the completion of an informal inquiry, must—
 - (a) if it is able to negotiate a consent order acceptable to the *pro forma* complainant, the respondent and itself—
 - (i) draft a consent order as agreed upon, set out in a form substantially corresponding with Annexure A1 to these regulations;
 - (ii) request the respondent and the *pro forma* complainant to sign the consent order;
 - (iii) make a finding; and
 - (iv) impose the penalty agreed upon in the consent order;

- (b) if it is unable to negotiate a consent order acceptable to the *pro forma* complainant, the respondent and itself, instruct a committee of formal inquiry in writing to hold a formal inquiry into the complaint against the respondent.
- (2) No consent order contemplated in subregulation (1) constitutes a previous conviction in any subsequent inquiry into a complaint against the respondent in terms of these regulations.

CHAPTER IV FORMAL INQUIRY

14. Disqualification of member of committee.—No person who served on the committee of preliminary investigation or the committee of informal inquiry in connection with a complaint may serve on a committee of formal inquiry in respect of that complaint.

15. Pro forma complainant.—

- (1) Once a committee of preliminary investigation or a committee of informal inquiry has referred a complaint to a committee of formal inquiry, the *pro forma* complainant must—
 - (a) determine a date, time and venue for the formal inquiry;
 - (b) prepare a notice in a format substantially corresponding with Annexure B to these regulations which notifies the respondent to attend a formal inquiry at a time, on a date and at a venue indicated by the *pro forma* complainant in the notice; and
 - (c) inform the members of the committee of formal inquiry accordingly and furnish them with copies of the notice and all applicable documents.
- (2) The notice referred to in subregulation (1) (b) must be served on the respondent personally or by registered post at his or her last known registered address.
- (3) The *pro forma* complainant and the respondent may request the registrar to summon as witness all persons whom they wish to testify on their behalf at the formal inquiry, by means of a summons substantially corresponding with Annexure C to these regulations.
- (4) If witnesses are summoned at the instance of the Respondent, the registrar may require the respondent to deposit with the council a sum of money which is sufficient to cover the fees and expenses referred to in subregulation (5).
- (5) The party at whose request a witness is summoned to appear and give testimony at a formal inquiry is 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 he or she may have incurred in order to attend the formal inquiry.

16. Appointment of chairperson.—The committee of formal inquiry must appoint one of their number a chairperson.

17. Procedure at formal inquiry.—At a formal inquiry the following procedure must be followed:

- (a) The *pro forma* complainant must 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.
- (b) If the respondent is present or represented by a legal representative, the chairperson must ask the respondent or his or her legal representative to plead guilty or not guilty to the charge, and the plea must be recorded.
- (c) If the respondent, or his or her legal representative, refuses or fails to plead directly to any charge, the committee of formal inquiry must record a plea of not guilty on behalf of their respondent and a plea so recorded has the same effect as if it had actually been pleaded.
- (d) If the respondent, or his or her legal representative, is not present at the formal inquiry, the committee of formal inquiry must proceed in the respondent's absence and record a plea of not guilty, unless the respondent has, in writing, pleaded guilty to the charge against him or her, in which case the committee must record same as the respondent's plea.
- (e) If the respondent is neither present nor represented, the written defence, statement(s) or explanations made by him or her or on his or her behalf before the formal inquiry, if any, constitute his or her defence and must be submitted by the *pro forma* complainant to the committee of formal inquiry.

18. Procedure after plea of guilty.—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 making a finding as to whether the complaint constitutes unprofessional conduct on the part of the respondent, it may call any witness summoned on behalf of the *pro forma* complainant or the respondent to give oral evidence under oath for affirmation and may accept such documentary evidence relevant to the complaint as it deems necessary, before making a finding.

19. Procedure after plea of not guilty.—

- (1) If a respondent pleads not guilty, first the *pro forma* complainant and then the respondent may lead evidence in support of the complaint and the defence, respectively.
- (2) After a witness has testified, the other party may cross-examine the witness.
- (3) The chairperson of the committee of formal inquiry—
 - (a) may put questions to any witness called on behalf of or by the *pro forma* complainant or the respondent and allow other members of the committee of formal inquiry to put questions to such a witness;
 - (b) must, before re-examination of the witness by the party who called that witness, allow further cross-examination arising from questions put by the chairperson and other members; and
 - (c) must, after the cross-examination referred to in sub-regulation (3) (b), 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 that witness by the chairperson or other members of the committee of formal inquiry.

20. Further evidence.—

- (1) The committee of formal inquiry may, after the parties have closed their cases—
 - (a) allow further evidence to be led;
 - (b) recall any witness who has testified.
- (2) The respondent and the *pro forma* complainant, or their legal representatives, may cross-examine any witness who has testified as contemplated in subregulation (1).

21. Procedure after evidence has been led.—After all evidence has been led—

- (a) the *pro forma* complainant may address the committee of formal inquiry on the evidence and the legal position;
- (b) the respondent or his or her legal representative may there after address the committee of formal inquiry; and
- (c) the *pro forma* complainant may reply to the arguments raised by or on behalf of the respondent.

22. Evidence and affidavits.—

- (1) All oral evidence must be taken under oath or affirmation by the chairperson of the committee of formal inquiry.
- (2) Evidence by way of affidavit must be admissible in terms of the Civil Proceedings Evidence Act, 1965 (Act No. 25 of 1965), or any common-law principle applicable to civil litigation.
- (3) The record, or any part thereof, of a lawfully constituted court, inquest or statutory body will be *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.

23. Findings by the committee of formal inquiry.—

- (1) Any decision by the committee of formal inquiry with regard to any point arising in connection with, or in the course of, an inquiry must be communicated to the persons concerned during that inquiry.
- (2) Upon the conclusion of the formal inquiry, the committee of formal inquiry must deliberate *in camera* on a finding.
- (3) If a respondent is found not guilty of the complaint lodged against him or her, he or she must be informed accordingly forthwith and the committee of formal inquiry must report its finding to the council.
- (4) If the committee of formal inquiry determines that sufficient facts were presented during the formal inquiry to prove the complaint on a balance of probabilities, it must decide whether the complaint as proved constitutes unprofessional conduct, and it must announce its finding at an open meeting.

- (5) If a respondent is found guilty by the committee of formal inquiry, the *pro forma* complainant must adduce evidence of previous convictions, excluding a finding or penalty imposed by a committee of informal inquiry, of the respondent under the Act, if such convictions have been recorded against the name of 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.
- (6) Evidence of previous convictions referred to in sub-regulation (5) must 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.
- (7) The respondent may challenge the correctness of a certificate referred to in subregulation (6), 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 must be produced, after which the fact of conviction must be regarded as conclusively proved.

24. Mitigation of penalty.—

- (1) 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 the penalty to be imposed.
- (2) Any witnesses called in mitigation may be questioned by the members of the committee of formal inquiry and the *pro forma* complainant.
- (3) The *pro forma* complainant may, after the respondent has addressed the committee of formal inquiry or adduced evidence in mitigation of the penalty to be imposed, make representations to the committee of formal inquiry or lead evidence, orally or in writing, regarding a suitable penalty to be imposed.
- (4) 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, that has a bearing on a suitable penalty, must be taken into account by the committee of formal inquiry.

25. Penalty and cost order.—

- (1) The committee of formal inquiry must deliberate in camera on the penalty to be imposed and the cost order, as contemplated in section 40 (3) of the Act, to be made.
- (2) The chairperson of the committee of formal inquiry must announce the finding, the penalty imposed and the cost order made, if applicable, at an open meeting.
- (3) The committee of formal inquiry must report its finding, the penalty imposed and the cost order made, if any, to the council.

26. Publication in Gazette.—The registrar must arrange for the publication, in anyone 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.

27. Assessors and legal advisers.—The committee of formal inquiry may appoint and remunerate a person with experience in the administration of justice to be present at any inquiry—

- (a) as an assessor; or

- (b) to advise the committee of formal inquiry on matters of law, procedure and evidence.

28. Adjournment of proceedings.—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 on such date and at such 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

29. Powers of council.—Nothing in these regulations shall be construed as divesting the council of the right and power to deal with any complaint without referring it to a committee of preliminary investigation, of informal inquiry or of formal inquiry.

30. The council may, if it has received a complaint of unprofessional conduct against a person registered with council in terms of the Act, apply to a magistrate of the district in which the respondent practices or carries on business as a pharmacist, to obtain a warrant which substantially corresponds with Annexure D to these regulations, authorising an officer or inspector duly appointed by the council in terms of section 4 (v) of the Act to—

- (a) enter, either alone or with the assistance of the South African Police Services, the business premises of the respondent or any other premises where business records or medicines belonging to the respondent are kept, which premises must be identified in the warrant;
- (b) search on such premises for unregistered or illegally acquired medicine, statutory records and other documents required to be kept in terms of the Medicines and Related Substances Control Act, 1965, or the Act that are relevant to the complaint; and
- (c) seize and remove from the business or other premises identified in the warrant such medicines, records or documents, after having compiled a complete inventory of the medicines, records or documents and verified the inventory with a person over the age of sixteen years apparently in control of such business or other premises, leaving, when applicable and practicable, copies of the records or documents seized and to be removed with that person.

31. Inquiries that commenced prior to these regulations.—A disciplinary inquiry in terms of the regulations promulgated under Government Notice No. R. 353 of 2 March 1984 that commenced before a disciplinary committee immediately prior to the commencement of these regulations, must be conducted according to the procedures prescribed by the first-mentioned regulations as if they have not been repealed.

32. Repeal.—The regulations promulgated under Government Notice No. R. 353 of 2 March 1984 are hereby repealed.

(signed)

MINISTER OF HEALTH

DATE: 25.5.2001

Annexure A
NOTICE TO ATTEND INFORMAL INQUIRY
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),
Third Floor, SA Pharmacy Council Building, 591 Belvedere Street, Arcadia, Pretoria, to answer to the following complaint(s):

[Add particulars of complaint(s)]

2.

The respondent may exercise one of the following options:

(a) 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 (date).

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 the of the following, together with the Annexure A1, to the *pro forma* complainant at the address indicated in Annexure A1:

- (i) 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:
- (ii) postal order or cheque;
- (iii) credit card authorization; or
- (iv) a written request to pay the fine and/or the costs indicated in Annexure A1 in instalments.

(b) Notice of intention to appear at informal inquiry

The respondent is entitled to give notice in the form of Annexure A2 that he or she shall

attend the informal inquiry in person at the appointed time and date to avail himself 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 Pharmacy Act, 1974 (Act [No. 53 of 1974](#)) (hereinafter referred to as "the Regulations" and "the Act" respectively), a copy of which is attached hereto.

Please note that, in terms of [regulation 12](#) of the Regulations, neither the *pro forma* complainant nor the respondent is entitled to legal representation at the informal inquiry.

(c) Notice of intention to appear at formal inquiry

The respondent is entitled to give notice in the form of Annexure A3 that he or she wishes to attend the committee of formal inquiry at the appointed time and date to avail himself or herself of his or her rights in terms of Chapter IV of the regulations, a copy of which is attached hereto.

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

General information regarding the options listed in paragraph 2

- (i) In the event of the respondent electing to consent to the proposed finding and penalty referred to in paragraph 2 (a), the committee of informal inquiry must, on the date set for the informal inquiry, make the finding and impose the penalty determined in Annexure A1: Provided that such finding does not constitute a previous conviction for purposes of regulation 13 (2) of the Regulations in any subsequent inquiry into unprofessional conduct by the respondent.
 - (ii) In the event of the respondent electing to appear at the informal inquiry referred to in paragraph 2 (b), the committee of informal inquiry must, on the date set for the informal inquiry—
 - (aa) deal with the complaint(s) in accordance with the procedure determined in Chapter III of the Regulations;
 - (bb) make a finding on whether the facts proved to its satisfaction constitute unprofessional conduct;
 - (cc) impose one of the penalties prescribed in section 45 (1) of the Act if it finds that the facts proved constitute unprofessional conduct;
 - (dd) make an order as to costs in terms of section 40 (3) of the Act; or
 - (ee) refer the matter for a formal inquiry by the committee of formal inquiry.
 - (iii) In the event of the respondent electing to proceed to a formal inquiry referred to in paragraph 2 (c), the committee of informal inquiry must, 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 in connection with such complaint(s) as the *pro forma* complainant may decide, of which the respondent will in due course be notified.
 - (iv) In the event of the respondent failing to respond to this notice or to exercise an option referred to in paragraphs 2 (a) to (c), the committee of informal inquiry must, 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.
3. The respondent is herewith 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
CONSENT ORDER

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 with which I have been charged constitutes unprofessional conduct on my behalf 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. attach hereto—

proof of direct payment into the bank of the South African Pharmacy Council;

postal order/cheque; or

authorization for the registrar of the South African Pharmacy Council to debit my credit card, account number

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

VISA MASTER

Expiry date :

--	--	--

Signed at _____ on _____

Respondent

Signed at _____ on _____

by the respondent before me in my capacity as commissioner of oaths, after having satisfied myself as to the identity of the signatory and of the fact the respondent knows and understands the contents of this document and the effect thereof.

Commissioner of oaths

Note:

This consent order is to be submitted by the respondent to the *pro forma* complainant at the following address:

Full names:

Physical address:

Telephone No.: ()

Annexure A2

NOTICE OF INTENTION TO APPEAR AT INFORMAL INQUIRY

THE SOUTH AFRICAN PHARMACY COUNCIL

Case No.:

In the matter between:

The *pro forma* complainant

And

(hereafter referred to as "the respondent")

NOTICE OF INTENTION TO APPEAR AT INFORMAL INQUIRY

1. Take note that the respondent intends to appear in person before the committee of informal inquiry of the South African Pharmacy Council at (time) on (date), Third Floor, SA Pharmacy Council Building, 591 Belvedere Street, Arcadia, Pretoria, to present his or her defence.

2. Further note that the respondent intends calling the following witnesses in terms of regulation 11:

Full names	Postal Address	Physical Address	Telephone Number.
1.			
2.			
3.			

and requests the registrar to summon these witnesses.

Signed at

on

Respondent

Note:

This notice is to be submitted by the respondent to:

(a) The committee of Informal Inquiry
The South African Pharmacy Council
PO Box 40040
Arcadia
0007
AND

(b) The *Pro Forma* complainant
PO Box 40040
Arcadia
0007

Annexure A3

NOTICE OF INTENTION TO PROCEED TO FORMAL INQUIRY

THE SOUTH AFRICAN PHARMACY COUNCIL

Case No.:

In the matter between:

The *pro forma* complainant

and

(hereafter 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 complainant 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 the Pharmacy Act, 1974 (Act No. 53 of 1974)

Signed at

on

Respondent

Note:

This notice is to be submitted by the respondent to:

(a) The Committee of Informal Inquiry
The South African Pharmacy Council
PO Box 40040
Arcadia

0007

AND

(b)

The *Pro Forma* Complainant

PO Box 40040

Arcadia

0007

Annexure B

NOTICE TO RESPONDENT TO ATTEND FORMAL INQUIRY

THE SOUTH AFRICAN PHARMACY COUNCIL

Case No.:

In the matter between:

The *pro forma* complainant

And

(hereafter referred to as "the respondent")

NOTICE TO RESPONDENT TO ATTEND FORMAL INQUIRY

You are hereby notified that the South African Pharmacy Council (hereafter referred to as "the council") or the committee of formal inquiry of the council intends to hold an inquiry on the day of on

(time) at

(address), at which and place the following complaint(s) which has(have) been brought 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 inquiry and to answer to the charge and to 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.

Should you wish 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

And you are hereby also warned that any such communication may be used in evidence.

A copy of the Regulations is enclosed.

Given on

at

complainant.

by the *pro forma*

Pro forma complainant

Annexure C

SUMMONS TO APPEAR BEFORE THE COMMITTEE OF PRELIMINARY INVESTIGATION OR THE COMMITTEE OF INFORMAL INQUIRY OF THE SOUTH AFRICAN PHARMACY COUNCIL, AND/OR TO PRODUCE DOCUMENTARY EVIDENCE IN TERMS OF REGULATIONS RELATING TO CONDUCT OF INQUIRIES HELD IN TERMS OF CHAPTER V OF THE PHARMACY ACT, 1974 (ACT NO. 53 OF 1974)

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 INQUIRY OF THE SOUTH AFRICAN PHARMACY COUNCIL, AND/OR TO PRODUCE DOCUMENTARY EVIDENCE IN TERMS OF REGULATIONS RELATING TO CONDUCT OF INQUIRIES HELD IN TERMS OF CHAPTER V OF THE PHARMACY ACT, 1974 (ACT NO. 53 OF 1974)

Witness's (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 inquiry or the committee of 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 inquiry or the committee of formal inquiry;

(b)

Submit to the registrar before

(date) all documents,

photographs, 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

Annexure D
WARRANT FOR SEARCH AND SEIZURE

TO THE REGISTRAR OF SOUTH AFRICAN PHARMACY COUNCIL

WHEREAS it appears from information under oath that there are reasonable grounds for believing that

(name),
(hereinafter referred to as "the respondent") has contravened section(s)
[specify statutory provision(s)] or is guilty or unprofessional

conduct to wit

and the respondent's conduct is the subject of a preliminary investigation, an informal inquiry or a formal inquiry in terms of the regulations made under section 49 (1) of the Pharmacy Act , 1974, (Act No. 53 of 1974); and

WHEREAS there are reasonable grounds for believing that there are on certain premises, to wit

, within the magisterial district of
, certain medicines, records or documents
connected with the alleged contravention of the said provision(s) or alleged unprofessional
conduct, namely

which is/are required as evidence in the preliminary investigation or at the informal or the formal inquiry,

an officer or inspector duly appointed by the South African Pharmacy Council in terms of section 4 (v) of the said Act is hereby authorised to, during the day, enter and search the above-mentioned premises and seize any medicines, records or documents mentioned herein.

GIVEN under my hand at

of on this
2

DATE STAMP

SIGNATURE: MAGISTRATE