1987 No. 473

NURSES, MIDWIVES AND HEALTH VISITORS

The Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1987, Approval Order (Northern Ireland) 1987

Made . . . . . *23rd December 1987*

Coming into operation . . *1st February 1988*

I, THE RIGHT HONOURABLE ROBERT LYND ERSKINE, BARON LOWRY, Lord Chief Justice of Northern Ireland, in exercise of the powers conferred on me by sections 22(4) and 23(3) of, and Schedule 6 to, the Nurses, Midwives and Health Visitors Act 1979(**a**) and of all other powers enabling me in that behalf, hereby approve the Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1987 made by the United Kingdom Central Council for Nursing, Midwifery and Health Visiting as set out in the Schedule hereto.

This Order may be cited as the Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1987, Approval Order (Northern Ireland) 1987 and shall come into operation on 1st February 1988.

Lowry
Lord Chief Justice of Northern Ireland

(**a**) 1979 c. 36

THE SCHEDULE

THE NURSES, MIDWIVES AND HEALTH VISITORS (PROFESSIONAL CONDUCT) RULES 1987

made by

THE UNITED KINGDOM CENTRAL COUNCIL FOR NURSING, MIDWIFERY AND HEALTH VISITING

under

THE NURSES, MIDWIVES AND HEALTH VISITORS ACT 1979

The United Kingdom Central Council for Nursing, Midwifery and Health Visiting, in exercise of the powers conferred on it by section 12 of the Nurses, Midwives and Health Visitors Act 1979 and all other powers enabling it in that behalf, hereby revokes the Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1983(**b**) and makes the following rules.

PART I

Citation and interpretation

1.—(1) These rules may be cited as the Nurses, Midwives and Health Visitors (Professional Conduct) Rules 1987.

(2) For the purposes of these rules the following expressions have the meanings hereby respectively assigned to them except where the context otherwise requires—

(*a*) "the Act" means the Nurses, Midwives and Health Visitors Act 1979;

(*b*) "applicant" means a former practitioner who has been removed from the register or part or parts of it and who is making an application for her name to be restored to the register or part or parts thereof;

(*c*) "complainant" means a body or person by whom a complaint has been made to the Council or a National Board alleging that a practitioner has been guilty of misconduct or that her fitness to practise is seriously impaired by reason of her physical or mental condition and who, where the case has been referred to a National Board or to the Conduct Committee or the Health Committee, wishes to be a party to the proceedings;

(*d*) "the Conduct Committee" means the Professional Conduct Committee of the Council constituted under rule 5;

(*e*) "the Council" means the United Kingdom Central Council for Nursing, Midwifery and Health Visiting;

(*f*) "the Health Committee" means the Health Committee of the Council constituted under rule 22;

(*g*) "legal assessor" means a person appointed to be a legal assessor under the provisions of paragraph 3(1) of Schedule 3 to the Act;

(*h*) "medical examiners" means the persons referred to in the Second Schedule to these rules;

(*i*) "misconduct" means conduct unworthy of a nurse, midwife or health visitor, as the case may be, and includes obtaining registration by fraud;

(*j*) "National Board" and "Board" shall have the same meaning as that assigned to them in the Act and shall include any National Board Committee which has been set up by a Board for the purpose of carrying out its functions under these rules;

(a) S.I. 1983/887 and S.R. 1983 No. 153

(*k*) "Notice of Referral" means the notice of referral under rule 29;

(*l*) "parties to the proceedings" means the respondent, applicant, complainant and/or solicitor collectively or such of them as are involved in a particular case;

(*m*) "practitioner" means any person whose name is on the register of nurses, midwives and health visitors;

(*n*) "professional screeners" means the professional screeners selected by the Council under rule 23(2);

(*o*) "the register" means the professional register of nurses, midwives and health visitors maintained by the Council under section 10(1) of the Act;

(*p*) "Registrar" means the person for the time being appointed as Registrar and Chief Executive of the Council and includes any person duly authorised to act and acting on her behalf;

(*q*) "respondent" means any practitioner who is alleged to be liable to have her name removed from the register;

(*r*) "the solicitor" means in the case of an investigation by a Board the solicitor appointed by the relevant National Board and in any case before the Conduct Committee or the Health Committee the solicitor appointed by the Council.

(3) The Interpretation Act 1978(**a**) applies to the interpretation of these rules as it applies to the interpretation of an Act of Parliament.

Removal from, and restoration to, the register

2.—(1) The circumstances in which a person may be removed from the register are—

(*a*) that she has been guilty of misconduct; or

(*b*) that her fitness to practise is seriously impaired by reason of her physical or mental condition.

(2) The means by which a person may be removed from the register in the circumstances of paragraph (1)(*a*) are that, in accordance with Part I of these rules, the question of misconduct has been investigated and referred to the Conduct Committee, the misconduct has been proved to the Conduct Committee's satisfaction and the Conduct Committee has directed the removal.

(3) The means by which a person may be removed in the circumstances of paragraph (1)(*b*) are that, in accordance with Part II of these rules, the question of unfitness to practise has been investigated and referred to the Health Committee which has determined the person's fitness to practise to be seriously impaired by reason of her physical or mental condition and has directed the removal.

(4) A person who has been removed from the register by the means specified in paragraph (2) may be restored by the direction of the Conduct Committee on an application made and determined in accordance with rule 15.

(5) A person who has been removed from the register by the means specified in paragraph (3) may be restored by the direction of the Health Committee on an application made and determined in accordance with rule 43.

(6) References in this rule to removal from, and restoration to, the register include removal from, and restoration to, any part of it.

Removal, alteration and restoration of entries

3. Without prejudice to her more general power to remove or alter entries in the register which would otherwise be inaccurate, the Registrar shall remove, alter and

(a) 1978 c. 30

restore entries whenever so directed by either the Conduct Committee or the Health Committee in accordance with these rules.

Investigating procedures

4.—(1) The National Boards of England, Wales, Scotland and Northern Ireland shall each respectively carry out investigations of cases of alleged misconduct by practitioners who are, or were at the time of their registration, ordinarily resident in the country for which the Board is constituted referred to them direct or through the Council, with a view to proceedings before the Council or a committee of the Council for a practitioner to be removed from the register or part or parts of it.

(2) Any Board may if it so wishes carry out its investigations through a committee appointed by the Board all of whom must be members of the Board concerned.

(3) Each Board shall ensure that whether investigations are carried out by a Board or by a committee appointed by a Board no member of the Council shall take part in any investigating procedures as a member of a Board or of a committee appointed by a Board.

(4) When considering how cases shall be investigated Boards shall have proper regard for the interests of all groups within the professions, including those with minority representation.

(5) Each Board shall consider all matters referred to it direct or through the Council.

(6) Where it has been brought to the notice of a Board that a practitioner is alleged to have been guilty of any misconduct the Board shall invite the respondent to furnish any written statement or explanation which she may desire to offer and shall lay the matter before the Board.

(7) A Board shall consider the matter and obtain such reports as it considers necessary and may at any stage of the case take the advice of the solicitor, and may instruct him to obtain proofs of evidence and statements in respect of the allegations of misconduct against the respondent, or in the case of a complainant who is not acting in a public capacity ask that the complaint may be verified by way of a statutory declaration, and may also, in such cases as the relevant Board may think fit, decline to proceed with the matter.

(8) Any statutory declaration required from a complainant who is not acting in a public capacity shall state the address and description of the complainant and the grounds for her belief in the truth of any fact declared which is not within her personal knowledge.

(9) A Board shall determine whether the case is one which would justify a hearing before the Conduct Committee with a view to removal from the register or part or parts of it and shall advise the Council if it considers that the allegations justify a hearing before the Conduct Committee.

(10) The Chief Executive Officer of the relevant Board or her authorised deputy shall inform the respondent and the complainant of the decision of the relevant Board.

(11) Where a Board decides that the case is one which shall be referred to the Conduct Committee the Council may direct the solicitor to take all necessary steps to verify the evidence to be submitted to the Conduct Committee and to obtain the necessary documents and the attendance of witnesses.

(12) If, at any stage in its consideration of any matter, a Board, having determined that the information received by it gives cause for concern, forms the opinion that the allegations may be an indication that the fitness to practise of the practitioner is seriously impaired by reason of her physical or mental condition, it may refer the case to the Health Committee with a view to proceedings before the Health Committee.

(13) Where a Board decides that the case shall be referred to the Health Committee the Board shall so inform the Registrar who shall proceed in accordance with rule 27.

(14) Where in any case so referred the Health Committee returns the case to the Board certifying its opinion that the fitness to practise of the practitioner is not seriously impaired by reason of her physical or mental condition the Board shall determine whether the matter shall be referred to the Conduct Committee or concluded.

Professional Conduct Committee

5.—(1) A Conduct Committee shall be constituted to determine whether or not—

(*a*) a practitioner shall be removed from the register or a part or parts of it, for reasons falling within rule 2(1);

(*b*) a person who has been removed from the register or a part or parts of it may be restored to it;

(*c*) an entry in the register may be altered.

(2) All members of the Council shall be members of the Conduct Committee.

(3) A quorum of the Conduct Committee shall be three.

(4) The Conduct Committee hearing any particular case or cases shall be chosen with due regard to the professional fields in which the respondent works or has worked.

(5) The Chairman of the Council shall be the chairman of the Conduct Committee.

(6) In addition the Council shall appoint a panel of not more than nine persons from whom a deputy chairman may be chosen who shall then take the chair in the absence of the chairman.

(7) In the event of neither the chairman nor any one of the deputy chairmen being available those members who constitute the Conduct Committee on that occasion shall select a chairman from within their own number.

(8) Any member who has participated in the preliminary consideration of a case as a member of a Board shall not be permitted to be a member of the Conduct Committee dealing with that case.

Notice of Inquiry before the Committee

6.—(1) Where a case has been referred by a Board to the Conduct Committee under the provisions of rule 4(9), or where a case having previously been referred by a Board for consideration by the Health Committee has been referred back by the latter committee, and subsequently referred by the said Board to the Conduct Committee, the Registrar shall send to the respondent a notice of inquiry in writing in the form set out in the First Schedule to these rules, specifying the nature and particulars of the charge against her, and informing her of the date, time and place of the meeting of the Conduct Committee at which the case will be heard. Such notice shall be sent by the recorded delivery service to the registered address of the respondent contained in the register or, if the Registrar has reason to believe that that address is not her present address, then to any later address which may be known to the Registrar, and shall be posted so as to allow at least 28 days to elapse between the day on which the notice is posted and the date fixed for the hearing.

(2) In any case in which there is a complainant, whether or not the complainant is to appear before the Conduct Committee, the Registrar shall send a copy of the notice of inquiry and a copy of the relevant rules to her.

(3) Upon any application by any of the parties to the proceedings, the Registrar shall send to that party copies of any statutory declarations, explanation, admission or other similar statement or communication sent to the Council by either the respondent or the complainant.