1973. No. 132 **[C]**

NURSES AND MIDWIVES

Midwives (Disciplinary) Rules Approval Order

ORDER, DATED 19TH APRIL 1973, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER SECTION 52 OF THE NURSES AND MIDWIVES ACT (NORTHERN IRELAND) 1970.

WHEREAS the Northern Ireland Council for Nurses and Midwives has, in exercise of its powers under Parts IV and V and section 52 of the Nurses and Midwives Act (Northern Ireland) 1970(a) made the Midwives (Disciplinary) Rules (Northern Ireland) 1973 and has submitted them to the Ministry of Health and Social Services (in this Order referred to as "the Ministry") for approval:

NOW, THEREFORE, the Ministry on behalf of the Secretary of State and in exercise of the powers conferred on it by section 52 of the Nurses and Midwives Act (Northern Ireland) 1970 and of every other power enabling it in that behalf, hereby makes the following Order:

1. This Order may be cited as the Midwives (Disciplinary) Rules (Northern Ireland) 1973 Approval Order (Northern Ireland) 1973.

2. The Ministry hereby approves the said Rules in the form set out in the Schedule.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 19th day of April 1973.

(L.S.) *F. A. Elliott,*
Assistant Secretary.

(a) 1970. c. 11 (N.I.).

SCHEDULE

The Northern Ireland Council for Nurses and Midwives, in exercise of the powers conferred on it by Parts IV and V and section 52 of the Nurses and Midwives Act (Northern Ireland) 1970 and of all other powers enabling it in that behalf, hereby makes the following Rules:—

1. These Rules may be cited as the Midwives (Disciplinary) Rules (Northern Ireland) 1973.

2. Section C of the Midwives Rules (Northern Ireland) 1965 is hereby revoked.

3. In these Rules—

"the Act" means the Nurses and Midwives Act (Northern Ireland) 1970;

"the Roll" means the Roll of Midwives for Northern Ireland maintained by the Council under the Act;

"midwife" means a woman whose name is on the Roll of Midwives;

"the prescribed form" means such form as may be prescribed by the Council from time to time;

"the Investigating Committee" means the Committee appointed by the Council under section 46(1)(*b*) of the Act;

"complainant" means a body or person by whom a complaint has been made to the Council alleging that a midwife has been convicted of an offence or has been guilty of misconduct or of malpractice or of disobeying the rules laid down under the Act or alleging that the entry of a name in the Roll has been procured by fraud and who, where the case has been referred by the Investigating Committee in their discretion under Rule 6 of these Rules to the Disciplinary Committee, wishes to be a party to the proceedings;

"Solicitor" means the person who for the time being is the Solicitor to the Council or his deputy appointed by the Council;

"Director" means the person for the time being appointed to act as Director of Nursing and Midwifery Education, and includes any person duly authorised to act and acting on her behalf.

PART I

Rules defining the conditions under which Midwives may be suspended from practice

1. In carrying out the provisions of section 38(*c*) of the Act, it shall be the duty of the health authority to suspend a midwife from practice when necessary for the purpose of preventing the spread of infection, whether she has contravened any of the rules laid down by the Council or not, and in the exercise of that duty the health authority shall, after communicating their decision to the midwife concerned, at once report any suspension in writing (with the grounds thereof) to the Council.

2. The period of suspension under the foregoing Rule shall not be longer than is required by the midwife for the purpose of disinfecting herself, her clothing and her appliances, to the satisfaction of the health authority; and if the period is expected to or does in fact last for more than twenty-four hours, the authority shall forthwith communicate to the Council the special circumstances in which the prolonged suspension arises and the matter shall be subject to revision by the Council. When the health authority is satisfied that the midwife has been properly disinfected it should communicate with her to that effect and any verbal communication should be confirmed in writing with the date when it was so satisfied.

3. The Disciplinary Committee may—

(*a*) suspend from practice for such period as they think fit in lieu of removing her name from the Roll any midwife, who after investigation by the Disciplinary Committee in the manner prescribed by the Rules, has been found guilty of disobeying the Rules or of other misconduct;

(*b*) suspend from practice until the case has been decided by the Disciplinary Committee and, in the case of an appeal, until the appeal has been decided, any midwife whose conduct is under investigation by the Disciplinary Committee on a charge of disobeying the Rules or of other misconduct.

4. The health authority may suspend from practice, until the case has been decided, any midwife against whom a prosecution has been taken for a contravention of any of the provisions of Parts III or IV of the Act or who has been reported to the Council for negligence or misconduct. The health authority shall in such cases communicate their decision in writing to the midwife concerned, and forthwith report the suspension (with the grounds thereof) to the Council.

PART II

Removal of a name from the Roll

5.—(1) When it is reported to, or otherwise brought to the attention of, the Council that a midwife has been convicted of a crime or has been guilty of malpractice or of disobeying the Rules laid down under the Act, or of misconduct, or where a question arises whether an entry in the Roll was procured by fraud, the Director shall, when investigation by the health authority is required, forthwith communicate such report or information to the health authority of the area within which the midwife resides, or of that in which the crime, malpractice, act of disobedience of the Rules, or misconduct is alleged to have been committed. She shall also ask such authority to investigate the matter and to report whether or not in their opinion, a prima facie case of malpractice, negligence, or misconduct has been established against the midwife. The Director shall also invite the accused person (hereinafter called "the respondent") to furnish any written statement or explanation which she may desire to offer.

(2) Any report by a Health authority shall as soon as may be after its receipt by the Director be laid with all other information relating to the case to which it refers before the Investigating Committee.

(3) The Investigating Committee shall consist of the Vice-Chairman of the Council, who shall be Chairman and four other members of the Council, none of whom shall be members of the Disciplinary Committee; a quorum shall be three.

The Council shall delegate to the Investigating Committee the responsibility for deciding whether any matter shall be referred to the Disciplinary Committee.

(4) If investigation by the appropriate health authority is not required or if within a reasonable time after the making of a request to the appropriate health authority for investigation of any case no report has been received from the health authority, the Director, after making such further inquiries relative to the case as she thinks necessary, shall invite the respondent to furnish any written statement or explanation which she may desire to offer and shall lay the case before the Investigating Committee.

6.—(1) The Investigating Committee shall consider the case and may at any stage of the case take the advice of the Solicitor, and may instruct him to obtain proofs of evidence in support of the allegations against the respondent, and may in such cases as they think fit, decline to proceed with the matter.

(2) Where the Investigating Committee decide that a prima facie case is made out for the removal of the respondent's name from the Roll and the cancelling of her certificate, they shall refer the case to the Disciplinary Committee and may direct the Solicitor to take all necessary steps for verifying the evidence to be submitted to the Committee and for obtaining the necessary documents and the attendance of witnesses.

(3) The Disciplinary Committee shall consist of nine members of the Council, two thirds of whom shall be nurses and midwives. The Council shall appoint one of the members of the Committee to be Chairman. A quorum shall be six.

The Disciplinary Committee shall meet at such times and in such places as the Committee may determine.

Members of the Disciplinary Committee shall be given not less than three clear days written notice of each meeting of the Committee.

7.—(1) Where a case has been referred by the Investigating Committee to the Disciplinary Committee under the provisions of Rule 6 of this Section the Director shall send to the respondent a notice of inquiry in writing in the form set out in Form A of the Appendix to these Rules, specifying the nature and particulars of the charge against her, and informing her of the time and place of the meeting of the Disciplinary Committee at which the case will be heard. The notice shall further require the respondent to send or deliver to the Director, her register of cases, records of sending for medical help and of pulse and temperature, including those relating to the said charge, seven days before the hearing of the case. Such notice shall be sent by registered letter or by letter sent by recorded delivery service to the permanent address of the respondent as contained in the Roll; or if the Director has reason to believe that that address is not her present address, then to any later address which may be known to the Director, and shall be posted so as to allow at least twenty-one days to elapse between the day on which the notice is posted and the date fixed for the hearing. A copy of the notice of inquiry shall also be sent to the appropriate health authority.

(2) Where any question whether any entry in the Roll was procured by fraud has been referred by the Investigating Committee to the Disciplinary Committee, the Director, in addition to sending a notice of inquiry in writing to the respondent and to the appropriate health authority, shall also send a copy of the notice to any person who is alleged to have been a party to the fraud alleged and to such others persons (if any) as the Chairman of the Disciplinary Committee may direct. Any such person may, with the leave of the Chairman, appear at the inquiry as an additional party thereto.

(3) In any case in which there is a complainant, the Director shall send him a copy of the notice of inquiry and a copy of these Rules.

(4) The Director shall send to the appropriate health authority, and upon application by any party to the inquiry shall send to that party, copies of any statutory declaration, explanation, admission or other similar statement or communication sent to the Council by any party to the inquiry.

(5) Any party to the inquiry may appear in person or be represented at the hearing by a friend, or by counsel or solicitor, provided that a complainant may be represented only by counsel or solicitor, or in the case of an incorporated or unincorporated body being a complainant, by a member or officer duly appointed by them for the purpose. If the respondent intends to be represented by counsel or solicitor, not less than seven days' notice of such intention shall be given to the Director.

(6) The appropriate health authority shall be given the opportunity to attend and assist the Director at the hearing of the case, unless the case is one to which the provisions of sub-rule (7) of this Rule applies.

(7) When in the course of proceedings for the removal of a name from the Roll charges are made against a health authority or any of its officers, to which an answer may be reasonably expected, such an authority or officer shall in each case be given the opportunity to appear and be heard at the hearing of the case.

8. The Disciplinary Committee may postpone the hearing of a case or may refer the matter to the Investigating Committee for further consideration or may amend a notice of inquiry or may decide that an inquiry shall not be held.

9. At the hearing of the case, the Solicitor, Director or other person appointed by the Disciplinary Committee for the purpose shall first state to the Disciplinary Committee the facts of the case and the charge alleged against the respondent, and shall then submit to the Disciplinary Committee the evidence in support of the charge and the respondent or her representative shall be entitled to cross-examine any witness appearing against her on matters relevant to the charge.

10. A certificate of a competent officer of the Court in which the proceedings took place that the respondent was convicted of a crime shall be sufficient proof of the conviction, unless the respondent proves that the conviction was subsequently quashed on appeal.

11. When the statement of the charge and the evidence in support thereof are concluded, the respondent or her representative shall be invited by the Chairman to address the Disciplinary Committee and to tender evidence in answer to the charge. The Solicitor, Director or other person appointed by