

UNFITNESS TO PRACTISE NURSING AND MIDWIFERY

A Guide for Practitioners,
Employers, Nursing Service
Managers and Heads of Nursing
Education Institutions (NEIs)



South African Nursing Council
Regulating nursing, advocating for the public

1. INTRODUCTION

The South African Nursing Council (SANC) is a statutory body established by an Act of Parliament, the Nursing Act, 1978 (Act No. 50 of 1978) and continues to function under the Nursing Act, 2005 (Act No. 33 of 2005) in regulating the Nursing and Midwifery professions. The primary reason for the SANC's existence is to protect the public. This is achieved by ensuring that there are regulations, rules and standards that determine the education, practice, and conduct of nurses and midwives, to ensure well trained, competent and safe practitioners.

The holistic health of a practitioner is important for the welfare of the health care user and the nursing profession. For this reason, the Council is mandated to receive, consider, and decide on allegations of unfitness to practise nursing with reasonable skill and safety made against a nurse or midwife; or in a case of a learner, to continue with nursing education programme.

2. PURPOSE OF THE INFORMATION GUIDE

The purpose of this guide is to provide information on:

- conditions that can be reported to the Council for consideration and/or inquiry.
- details that Council requires from the person who lodges the complaint or notification, when reporting alleged unfitness to practise;
- the process the Impairment Committee follows in managing reported incidents or allegations of unfitness to practise; and
- decisions that may be taken to resolve or facilitate resolution of the allegation.
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3. SCOPE OF APPLICATION OF THE INFORMATION GUIDE

The guide is meant for all practitioners, employers, nursing service managers and heads of nursing education institutions, both in public and private sector.

4. RECOGNITION OF POSSIBLE UNFITNESS TO PRACTISE

In terms of section 51(7) of the Nursing Act, 2005 (Act No. 33 of 2005), “impairment” refers to a condition which renders a practitioner incapable of practicing nursing with reasonable skill and safety.

Unfitness to practise means that a person registered in terms of the Act, is or may be incapacitated as a result of an illness or disability, or impaired (whether mentally or otherwise) to such an extent that:

- it would be detrimental to the public to allow him or her to continue to practice nursing or midwifery;
- he or she is unable to practise the profession with reasonable skill and safety; or
- in the case of a learner, has become unfit to continue with the relevant education and training programme.

The reasons for unfitness to practise are many and varied. The most common reasons are:

- drug/substance dependency or addiction, including alcohol dependency;
- serious mental illness which includes depression, anxiety disorders, personality disorders; and
- physical illnesses or disabilities that cause a nurse or midwife to be unable to discharge his/her duties with due competence and safety.

[Such conditions may be intermittent or progressive in nature].

5. REPORTING ALLEGED UNFITNESS TO PRACTISE TO THE SOUTH AFRICAN NURSING COUNCIL

Practitioners who continue to work when they are unfit to practise due to either physical or mental impairment pose a risk to health care users, their colleagues, students, as well as themselves. It must be acknowledged that some practitioners may not be aware of their own impairment and may need vigilant managers, employers or colleagues to:

- identify the challenge;
- assist them in using available Employee Assistance Programmes (EAPs); or
- report to the Council, if it is evident that the practitioner cannot continue practicing nursing with reasonable skill and safety.

NB: Complaints must only be reported to the Council; after the employer or manager has intervened, exhausted all processes at their disposal; and is still convinced that the practitioner cannot practice safely and competently, or the head of the nursing education institution has intervened and remains convinced that the student may not be fit to continue with the education programme.

The complaint or notification of possible unfitness to practise must contain details that will enable the Council to communicate with the practitioner and must include:

- details of the practitioner or student i.e. full names, address, SANC reference number and category;
- nature of the illness, or full details of the incident in case of substance abuse;
- statements from other persons who may have witnessed the incident or illness;
- records such as reports from the medical practitioner, psychologist, psychiatrist, psychiatric nurse specialist etc.;

- and report/s of intervention by management or the employer and the outcome thereof. This could include an employee assistance programme and/or disciplinary hearing report(s).

The complaint must be lodged in the form of an affidavit, and must be submitted to the SANC, using the following details:

Physical Address if hand delivered	Cecilia Makiwane Building, 602 Pretorius Street, ARCADIA, PRETORIA, 0183
Postal Address, if posted	Private Bag X132 PRETORIA, 0001
E-mail Address	professionalpractice@sanc.co.za

6. HANDLING OF ALLEGATIONS BY THE NURSING COUNCIL

The SANC may, after receiving the complaint, request further information or clarification in order to determine if the matter reported falls within its jurisdiction. The practitioner against whom an allegation of unfitness to practise has been lodged is informed so that she/he can provide any information that s/he thinks may assist towards resolving the matter.

In line with the provisions of section 51 of the Nursing Act, 2005 (Act No. 33 of 2005), the Council appointed a committee known as the Impairment Committee, which is mandated with the responsibility to assess complaints of unfitness to practise nursing and conduct inquiries where necessary, in order to determine if a practitioner is indeed unfit to practise.

The Committee consists mostly of nurses.

The Impairment Committee is not a disciplinary committee but is supportive and developmental in nature. Meetings are confidential and held *in camera* in order to protect the privacy of the practitioner. Where deemed fit by the Committee, the practitioner and a support person/s may be called in for an inquiry.

An external assessor, usually an expert (e.g. a psychiatric nurse specialist or psychologist), may be invited at the Committee's discretion in order to assist the Committee with its assessment of the case/matter.

The Committee may, at any given time, request further information, therapists' reports, manager/supervisor's reports as well as blood test results.

On the basis of its findings, the Committee makes a decision regarding the health status of the nurse, midwife or student and such findings are reported to the full Council.

7. POSSIBLE FINDINGS

Based on received information, interaction with the practitioner and /or his/her support system, the Committee will decide if the practitioner is:

7.1 *Fit to practise nursing where:*

- there is lack of documentary evidence that the practitioner has a physical or mental disability that renders her/him unfit to practise;
- the practitioner had been cleared of wrongdoing (e.g. repeated negative drug test results); or
- a mental or physical condition is in total remission, the nurse is stable and there are no signs of relapse.

7.2 Fit to practise or to continue with the education programme under certain conditions

This may sometimes require the employer or supervisor to place the practitioner in a less demanding work area or environment. The employer may be required, by the Committee, to submit reports indicating the functional level of the practitioner, progress reports from therapists, or results of random blood tests.

7.3 Suspended from practising nursing.

A practitioner may be suspended for a specified time, when the Committee is of the opinion that such suspension protects health care users and other practitioners while the matter is being investigated.

7.4 Not fit to practise nursing.

This may be the case where the reports of therapists reflect a serious physical or mental disability that renders a practitioner unfit to practise their profession with the necessary skill and safety. This finding can also be made where a practitioner is deemed to be a habitual user of addictive substances, which renders them a danger to themselves and health users.

In the case of the latter, the Committee can direct that:

- the practitioner be suspended from practising due to incompetence, unsafeness and a danger to self, health care users and colleagues; and
- the practitioner's name be removed from the Register in case of serious and progressive illness and after the employer has complied with the labour processes.
- In a case of learner, recommend termination of his or her education and training programme.

8. ROLE OF EMPLOYERS, NURSING SERVICE MANAGERS AND HEADS OF NURSING EDUCATION INSTITUTIONS

Employers and nursing service managers have a responsibility to protect patients from unsafe practitioners.

It is therefore expected of them to:

be vigilant at all times, so that signs of physical and/or mental illness can be identified and monitored accordingly.

develop, implement policies and procedures with regards to the ordering, safe keeping and administration of scheduled substances/ medication

monitor compliance policies with regards to ordering, safe keeping and administration of scheduled substances/ medication

assist/support affected practitioners – Internal assistance processes and systems must be put in place and information must be provided, so that such services are utilized by employees without fear.

Where labour law requires that an employee with progressive and sometimes irreversible illness be managed in a labour-compliant manner, it is the responsibility of managers and employees to report this to Human Resources departments and manage this in line with the policies and protocols.

A practitioner who is required to have physical contact with the Impairment Committee of the Council, needs to be encouraged and supported during this process. Providing information about the nature and role of the Impairment Committee will allay anxiety among practitioners.

Report to the Council – When it is apparent that a practitioner has

become impaired and can no longer practise her/his profession with reasonable skill and safety, the employer or nursing service manager or head of a nursing education institution must report the matter to the Council. This must be done in line with the requirements of Section 51 of the Nursing Act, 2005 (Act No. 33 of 2005); as set out under heading 5 of this information guide.

Co-operate with the Council – The Council will, from time to time, request a manager/supervisor to submit reports indicating the functional level of a practitioner. This will be submitted on a template as determined by the Council from time to time. The template is attached as Annexure A, for your convenience.

Contribute towards the protection of the public – The Council is aware that disciplinary processes that are instituted against a practitioner can lead to dismissal from the institution, especially in cases of substance abuse. Such practitioners often seek and find employment or facilitated employment where their habits are not known, and their behaviour is not monitored. This presents a bigger danger to health care users than when the practitioner remained in employment where their conduct can be continually monitored. It is therefore desirable that such cases are reported to the Council.

9. FURTHER INFORMATION, QUESTIONS AND QUERIES

Further enquiries can be directed to the following officials:

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Ms S V Kubayi

(Professional Officer, SANC)

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