

S.I. 3/1993
S.I. 75/1993

**NURSES AND MIDWIVES (NURSES AGENCIES)
REGULATIONS, 1993**

(SECTION 15)

[Commencement 25th January, 1993]

Citation.

1. These Regulations may be cited as the Nurses and Midwives (Nurses Agencies) Regulations, 1993.

Interpretation.

2. In these Regulations —

“agency” or “agency for the supply of nurses” means the business (whether or not carried on for gain and whether or not carried on in conjunction with another business) of supplying registered nurses, registered midwives, or enrolled clinical nurses to provide services which are consistent with their professional status;

“application” means an application made under regulation 4, for the issue of a licence: “Council” or “Nursing Council” means the Nursing Council established under section 3 of the Act;

“licence” means a licence issued by the Council under regulation 8 in respect of the carrying on of an agency;

“nurse” means —

- (a) a registered nurse registered in accordance with section 9(1)(a) of the Act;
- (b) a registered midwife registered in accordance with section 9(1)(b) of the Act;
- (c) an enrolled clinical nurse enrolled in accordance with section 10 of the Act;

or as the case may be.

Restriction on carrying on of nursing agency.

3. (1) A person who carries on an agency shall before employing a nurse who holds an office of emolument under the Crown in right of The Government of The Bahamas ascertain whether that nurse has obtained approval for additional employment under General Orders.

(2) A person who carries on an agency shall give to every person to whom he supplies a nurse a written statement as to the qualifications of the person supplied.

(3) No person shall carry on an agency unless the selection of the person to be supplied for each particular case is made by or under the supervision of a registered nurse or a medical practitioner.

(4) No person shall, on any premises in The Bahamas, carry on an agency unless the person is the holder of a licence from the Nursing Council authorising him so to do on those premises.

4. (1) A person who is desirous of carrying on an agency may apply to the Council for a licence in accordance with Form A in the Schedule and shall submit the application to the Council.

Application for licence.

Form A. Schedule.

(2) An application under paragraph (1) shall be submitted together with documents containing information as to the proposed —

- (a) philosophy and objectives of the agency to which the application relates;
- (b) policies and procedures for governing the agency;
- (c) respective records required to be kept by any nurse supplied in the carrying on of the agency;
- (d) methods of evaluating the quality of care received by a patient or client of the agency;
- (e) policies for ensuring the confidentiality of records; and
- (f) means of liability insurance for the staff of the agency.

(3) As soon as may be after receipt of an application under paragraph (1), the Council shall cause to be published in at least two issues of a newspaper published and circulating in The Bahamas, at an interval of not less than one week, and twice in the *Gazette*, such particulars of any application received by the Council as the Council thinks fit.

5. (1) The Council shall, for the purpose of determining any application for a licence, hear the application in public.

Public hearing of applications.

(2) Before any such hearing is held, the Council shall give notice in writing to the applicant and to any person who has made representations or objections with regard to the application, and shall give the applicant and any such person an opportunity of being heard at the hearing.

(3) Every applicant for a licence shall be notified by the Council of the date fixed for the hearing of the application and shall attend either personally or by counsel and attorney before the Council on that date.

Objections.

6. Any person who may reasonably be considered by the council to have an interest in the issue or refusal of a licence may, within such time as the Council may require, make to the Council written representations, or objections, with regard to any application for a licence.

Grounds for refusal or revocation of licence.

7. (1) An application for a licence may be refused, or any such licence which has been issued may be revoked by the Council on the ground —

- (a) that the applicant or, as the case may be, the holder of the licence is not a fit and proper person to hold such licence;
- (b) that there is no need or demand for the nursing service proposed in the application;
- (c) that the equipment, organisation and staffing arrangements of the agency to which the application relates are inadequate;
- (d) that the premises on which the agency is, or would be, located are unsuitable;
- (e) that the agency has been or is being improperly conducted;
- (f) that offences against the Act or any regulations made thereunder have been committed in connection with the carrying on of the agency; or
- (g) that there is a failure to comply with a requirement of a law regulating or relating to the carrying on of that agency;

and the Council may, in addition, revoke any such licence if the holder of the licence has wilfully failed to comply with any condition subject to which the licence was issued or if there has been a failure to comply with the uniform code, code of ethics or standard of nursing care specified by the Nursing Council.

(2) Before revoking any licence under paragraph (1), the Council shall —

- (a) give notice in writing to the holder of the licence, specifying the ground upon which it is proposed to revoke the licence and requesting the holder of the licence to show cause why the licence should not be revoked; and

- (b) hold a hearing in public, giving to the holder of the licence an opportunity of being heard at the hearing.

8. (1) The Council may, within thirty days after holding a hearing under regulation 5 in respect of any application for a licence, approve or refuse the application and shall within seven days of its decision give written notice to the applicant of any such approval or refusal. Licence.

(2) In any case where an application has been approved, the Council shall on payment of a fee of three hundred dollars for the licence issue to the applicant the licence subject to such conditions as the Council thinks fit for securing the proper conduct of the agency, including conditions as to the fees to be charged by the person carrying on the agency, whether to the nurses, supplied, or to the persons to whom they are supplied.

(3) A licence shall (unless sooner revoked) be valid until the 31st day of December in the year in which the licence is issued. S.I. 75/1993.

(4) If, at the date of the expiration of a licence, an application to the Council is pending for the issue of a new licence, the existing licence shall continue in force until the 31st March in the year next following that in which the existing licence was issued or until the application is approved or refused. S.I. 75/1993.

(5) A licence shall be in the form set out as Form B in the Schedule and where an agency is carried on at more than one premises, any licence to be issued in respect of that agency shall be issued in the said Form B together with such additional number of copies thereof as there are number of premises in excess of one. S.I. 75/1993.
Form B.
Schedule.

9. (1) The Council shall cause to be published in the *Gazette* such particulars of its decisions on applications for licences and of its decision to revoke a licence as the Council deems fit. Publication of Council's decision.

(2) The Council shall it required by the person in writing so to do, send or deliver to that person within seven days of the receipt of the requirement particulars in writing of the ground for any decision made under paragraph (1).

Appeal.

10. (1) A person aggrieved by a decision of the Council —

- (a) to issue a licence;
- (b) to revoke a licence; or
- (c) to attach conditions to the licence,

may within twenty-one days from receipt of such decision appeal to the Minister.

(2) Upon any such appeal the Minister may confirm, modify or reverse the decision of the Council complained of or make such other order, including an order for costs, as he thinks just.

(3) A decision of the Minister under paragraph (2) shall be final.

Licence not transferable.

11. A licence shall not be capable of being transferred or assigned.

Display and inspection of licences.

12. The holder of a licence shall —

- (a) display the licence in a conspicuous place on any premises occupied by the holder for the carrying on of the agency;
- (b) produce the licence for inspection when reasonably requested to do so by a member of the Council or any other person authorized by the Council.

Lost or defaced licence.

13. (1) If the holder of a licence satisfies the Council that such licence has been lost or defaced, the Council shall on payment of the fee of one hundred dollars issue to that holder a duplicate licence and shall endorse thereon any particulars endorsed upon the original licence, and the duplicate so issued shall have the same effect as the original.

(2) If at any time after the issue of a duplicate licence and during the currency of such duplicate the original licence shall be found, the person to whom the original was issued shall, if it is not in that person's possession, take all reasonable steps to obtain possession of it and shall return it as soon as may be to the Council.

Surrender of licence.

14. (1) A licence may at any time be surrendered by the holder to the Council for cancellation.

(2) If, during the currency of the licence, the holder applies for a new licence in substitution for the current licence, that holder shall, if a new licence is issued, surrender the current licence for cancellation on the date from which the new licence is expressed to take effect.

15. A record of all licences issued in any year shall be kept by the Council and may be published in the *Gazette* as and when directed by the Minister.

Record of licences.

16. A person carrying on an agency shall keep, and make available at all reasonable times to the Council, records of the following particulars —

Records to be kept by agency.

- (a) the name, address and telephone number of any nurse, supplied (or proposed for supply) by the agency;
- (b) the qualifications of the nurse, and the name and address of any institution in which the nurse received training or further education;
- (c) the name and address of the person to whom the nurse, was supplied by the agency and the dates on which, and the job description under which, the nurse, was so supplied;
- (d) any treatment carried out or any referral made, by the nurse, to a medical practitioner in respect of a patient or client to whom the nurse, was so supplied;
- (e) any complaint relating to, or any accident or incident involving, the nurse, in the course of the performance of the nurse's duties' while such nurse is being supplied by the agency to a patient or client;
- (f) the maximum number of patients or clients who would, at the same time, be under the care or supervision of the nurse, while the nurse is being supplied by the agency;
- (g) such other matters relating to the administration or enforcement of these Regulations as the Council may in writing require.

17. (1) A person who carries on an agency shall submit on the request of the Council, a report of the activities of the agency in respect of the year immediately preceding the date of the request.

Annual report.

(2) Any person who acts in contravention of paragraph (1) or who wilfully makes, or orders to be made, any false entry in, or any omission from, the annual report is guilty of an offence and liable on summary conviction to a fine of three hundred dollars.

Secrecy.

18. (1) Except in so far as may be necessary for the due performance of his functions as an employee of the Agency or when lawfully required to do so by any court or under the provisions of any other law, such employee shall preserve and aid in preserving secrecy with regard to all matters that may come to that employees knowledge in the course of carrying out of his functions and which are related to the affairs of the Agency or any patient or client of the Agency or of any person who has any dealings with the Agency.

- (2) Any person employed by the Agency who —
- (a) communicates in breach of subsection (1) any matter referred to in that subsection; or
 - (b) suffers or permits any unauthorised person to have access to any records or documents relating to any patient or client thereof or other person having dealings with the Agency whereby such preservation of secrecy as provided for by subsection (1) is or is likely to be breached,

shall be guilty of an offence and liable on summary conviction to a fine of five hundred dollars or to a term of imprisonment of six months or to both such fine and imprisonment.

(4) Notwithstanding paragraphs (1) to (2), any person may communicate to any other person information relating to the affairs of the agency or of any patient or client of the agency for the carrying out or enforcement of these Regulations.

Proof of issue of licence.

- 19.** In any proceeding in a court, the fact that —
- (a) a licence has been issued to a person may be established by the production of an extract, certified by the Chairman of the Council from the record of licences kept by the Council pursuant to regulation 15, of the entry recording the issue of the licence and of proof that that person and the person named in the entry are one and the same;

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- (b) there was not in force at a specified time a licence in respect of the carrying on of an agency whether by a particular person or not may be established by the production of a statement to that effect signed by the Chairman of the Council.

20. It shall be the duty of the Council to enforce the provisions of these Regulations and, for the purpose of ensuring compliance with those provisions, any registered nurse duly authorised in writing in that behalf by the Council may, with the consent of a person carrying on an agency, enter any premises occupied for the purposes of the agency to inspect, and take copies of, any books, records or other documents kept there and relating to the carrying on of the agency.

Power of entry.

21. Any person who —

Offences.

- (a) contravenes the provisions of paragraph (1) or (3) of regulation 3;
- (b) in any year without lawful excuse carries on a business in respect of which there is no licence in force;
- (c) fails without reasonable excuse to make available to the Council any records required by these Regulations to be made available to the Council;
- (d) in any information or particulars furnished under these Regulations, makes a statement which that person knows to be false in a material particular or recklessly makes a statement which is false in a material particular;
- (e) in relation to any agency, knowingly keeps or preserves, or causes to be kept or preserved, any book, record or document which is false in any material particular, or makes or causes to be made in any book, record or document any entry which is false in any material particular;
- (f) permits his licence to be used by another; or
- (g) makes use of, trades, or acts in any way with, under, or by colour of a licence granted to another, or of a licence which has been revoked,

is guilty of an offence and liable on summary conviction to a fine of five hundred dollars or to a term of imprisonment of six months or to both such fine and imprisonment.

Fees.

22. Any fee received by the Council under these Regulations shall be paid into the Consolidated Fund.

SCHEDULE

FORM A (Regulation 4)

APPLICATION FOR THE ISSUE OF A NURSES AGENCY LICENCE UNDER THE NURSES AND MIDWIVES (NURSES AGENCIES) REGULATIONS, 1993

1. Name of Applicant:
 Address of Applicant:

 P.O. Box No: Tel No:
 2. Nationality:
 3. (a) In the case of a Company, state address of registered and/or principal office, and the names of all beneficial shareholders and the amount of shares held by each shareholder;.....
 (b) In the case of a Partnership, state also the names of the Partners:.....
 4. Name of Nurses Agency:
 Address of Nurses Agency:
 P.O. Box No: Tel. No:
 Emergency Contact: Beeper No:.....
 5. Number of Branches and location of each:
 6. Name of Executive Officer (that is, the person managing the Nurses Agency on a day-to-day basis):
 7. Qualification and experience of Executive Officer:
 (Please submit certified copies of certificates)
 8. Number of persons employed by Proprietor for the purposes of the Nurses Agency:
 (a) Number of registered nurses:
 (b) Number of registered midwives:
 (c) Number of enrolled clinical nurses:
 (d) Number of other support staff:
 9. Outline of mechanisms for referrals:
 10. State No. and year of issue if any licence(s) now held in respect of the Nurses Agency:
- Signature of Applicant
- Date

FORM B (Regulation 8)

**ANNUAL NURSES AGENCY LICENCE ISSUED UNDER
THE NURSES AND MIDWIVES (NURSES AGENCIES)
REGULATIONS, 1993**

Pursuant to regulation 8 of the Nurses and Midwives (Nurses Agencies) Regulations, 1993, is hereby issued a licence to carry on an agency for the supply of nurses at:
subject to the terms and conditions specified in those Regulations and subject also to the special terms and conditions following, that is to say —

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Issued the day of , 19.....

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Chairman, Nursing Council