

Statutory Instrument No. 82 of 1969

THE NURSES AND MIDWIVES LAW, 1964

THE REGISTERED MIDWIVES DISCIPLINARY AND ETHICAL RULES, 1969

(Published on 29th August, 1969)

In accordance with section 12(2) of the Nurses and Midwives Law, 1964 (No. 43 of 1964), the following rules, made by the Nursing Council for Botswana in the exercise of the powers vested in it by section 12(1) of the said Law and approved by the Minister of Education, Health and Labour, are published –

ARRANGEMENT OF RULES

PART I

PRELIMINARY

1. Citation
2. Interpretation

PART II

BREACHES OF DISCIPLINE OR PROFESSIONAL ETHICS

3. Breaches of Discipline or Professional Ethics

PART III

RULES OF PROFESSIONAL PRACTICE FOR MIDWIVES

4. Professional Secrecy
5. Limitation of Practice
6. Administration of Anaesthetics
7. Dangerous or Habit Forming Drugs
8. Administration of Injections and Intravenous Infusions, the taking of blood from veins and Blood Transfusions
9. Equipment
10. Precautions to be taken
11. Records
12. Administration of Drugs
13. Duties of the Midwife during the Antenatal Period
14. Vaginal and Rectal Examinations
15. Attendance upon a Patient during Labour
16. Duties during Puerperium
17. Breast Feeding
18. Medical Aid

PART IV

TRIAL OF MIDWIVES ACCUSED OF BREACH OF DISCIPLINE OR PROFESSIONAL ETHICS

19. Charge
20. Service of Charge
21. Directive to Accompany Charge
22. Effect of Admission
23. Trial by Council
24. Summoning of Witnesses etc.
25. Default or Misbehaviour
26. Notice of Time and Place of Trial
27. Presentation of Case in Support of Charge
28. Council may be Legally Advised
29. Proceedings on Trial
30. Acquittal or Conviction by a Court of Law not a Bar to Proceedings
31. Proof of Commission of Criminal Offence
32. Finding
33. Voting
34. Punishment
35. Copy of Record may be Applied for
36. Appeal
37. Record to be forwarded to Minister
38. Director may submit Representations
39. Midwife may submit Reply
40. Minister's Powers on Appeal
41. Reopening of Trial
42. Decision on Appeal to be conveyed to Midwife

PART I

PRELIMINARY

Citation

1. These rules may be cited as the Registered Midwives Disciplinary and Ethical Rules, 1969.

Interpretation

2. In these rules --

“Director” means the Director of Medical Services;

“midwife” means a person of either sex registered in the register of midwives referred to in section 13 of the Law.

PART II

BREACHES OF DISCIPLINE OR PROFESSIONAL ETHICS

Breaches of Discipline or Professional Ethics

3. A midwife shall be guilty of a breach of discipline or professional ethics and may be dealt with in accordance with the provisions of Part IV of these rules if she –

- (a) not being registered as a medical practitioner, practises as a medical practitioner (whether or not purporting to be registered) or performs any act specially pertaining to the calling of a medical practitioner (whether or not purporting to be registered) or uses any name, title, description or symbol indicating, or calculated to lead persons to infer, that she possesses a degree, diploma or other qualification as a medical practitioner, doctor of medicine, physician or surgeon accoucheur, or that she is registered as a medical practitioner;
- (b) advertises herself for professional gain or permits such advertisement, otherwise than by stating her name, address, telephone number, hours of attendance and registered qualifications on or in a board, plate or notice displayed at her place of work or in a simple entry in a telephone directory or other directory;
- (c) advertises any other person (whether or not such person is registered or enrolled under the Law or under the Medical, Dental and Pharmacy Proclamation (Chapter 147)) or, save with the written permission of the Council, advertises any project, business, institution or organization of any nature whatsoever or any product thereof, for any purpose whatsoever or in any manner whatsoever, or permits her name or photograph (whether in uniform or not) to be used in such advertisement;
- (d) wilfully breaks any contract of service into which she may have entered if such break shall conduce to the detriment of the patient whom she has contracted to attend;
- (e) wilfully, and otherwise than in a report or communication to an appropriate authority or official body, reflects adversely by work or implication upon the probity, professional reputation or professional skill of any person registered or enrolled under the Law or under the Medical, Dental and Pharmacy Proclamation (Chapter 147);
- (f) wilfully does or omits to do anything, which act or omission is calculated to bring the Council or any of its members into contempt or disrepute or to hamper the work of the Council;
- (g) misappropriates drugs, however small the quantity, for use by herself or by others or for any other purpose, or misappropriates a prescription for drugs;
- (h) fails to use or apply due skill, care or attention in the course of her professional duties;
- (i) contravenes or fails to comply with any of the rules of professional practice for midwives set out in Part III of these rules;

- (j) having been suspended by the Council from practice as a midwife, during the period of such suspension practises as such;
- (k) commits an act, or conducts herself in a manner, unbecoming a midwife, whether such act or conduct constitutes or involves the commission of a criminal offence or not.

PART III

RULES OF PROFESSIONAL PRACTICE FOR MIDWIVES

Professional Secrecy

4. A midwife shall at all times observe the following rules of professional secrecy—
- (1) Midwives shall hold in confidence all personal information entrusted to them in the course of their duties.
 - (2) Information regarding a patient's condition, treatment and diagnosis shall not be disclosed to anyone without prior permission from the patient or the medical officer in charge of the patient.
 - (3) No information of any kind regarding a patient shall be disclosed to the press, any member of the public, or any other person without prior permission from the patient, the medical officer or the hospital authorities.
 - (4) No person, other than those directly responsible for the patient shall have access to the patient's case notes, unless prior permission is granted by the medical officer in charge of the patient.
 - (5) No information regarding a patient's condition shall be conveyed to relatives or friends either by telephone or by word of mouth by any midwife unless that midwife has had prior permission or has been authorised to disclose such information.
 - (6) It is a breach of confidence to discuss any personal information given to a midwife by a patient, unless it has some bearing on the patient's condition, and this information can only be given to the doctor or to the senior midwife.
 - (7) No member of the nursing staff of a hospital shall discuss with or relay to any member of the public any gossip pertaining to any patient, or any other member of the staff, so as to bring into disrepute the good name of the hospital.

Limitation of Practice

5. A midwife shall not attend a patient where the required attention falls outside the scope of such midwife's registration, except in an emergency or when a correctly qualified person is not available from any source. In such event the midwife shall forthwith report the facts of the case to the Council in writing.

Administration of Anaesthetics

6. Should a medical practitioner decide that it is in the interests of the patient, a midwife may, on the written or verbal order of the medical practitioner, and in his presence and under his direction and on his responsibility, administer an anaesthetic. Save as aforesaid, a midwife shall not administer an anaesthetic.

Dangerous or Habit Forming Drugs

7. In the case of dangerous or habit forming drugs, a midwife shall —

- (a) keep a register of all such drugs supplied to her and record the name and address of the supplier, the date received and the strength of the drug supplied as well as the total amount received. A separate page shall be used for each drug and strength of such drug;
- (b) record the date, dosage and name of the drug given to any person and record the name of such person;
- (c) keep such drugs under lock and key or by such other method of safekeeping as may from time to time be laid down by the Council;
- (d) make her register and stock of drugs available for inspection at any time by the Director or his authorised representative or a Police Officer;
- (e) at once report any loss or theft of drugs to the Police, the Director and the Council, giving a written statement of the circumstances of such loss;
- (f) when giving any such drugs, have the drug and the dosage checked by a medical practitioner or a registered nurse or a registered midwife, or, in the absence of such persons, have the drug and dosage checked by an Enrolled Nurse or Medical Aide or any other suitable person and ensure that all such persons sign in her register that they have carried out such check.

Administration of Injections and Intravenous Infusions, the taking of Blood from Veins and Blood Transfusions

8. (1) *Hypodermic and Intramuscular Injections* – A midwife may administer a hypodermic or intramuscular injection –

- (a) on the written order of a medical practitioner or a dentist;
- (b) on the verbal order of a medical practitioner or a dentist, given by the medical practitioner or the dentist personally, and wherever possible in the presence of a responsible witness. Written confirmation of such order shall be obtained from the medical practitioner or the dentist as the case may be, within a reasonable time. Should such written confirmation not be obtained within a reasonable time, the midwife shall forthwith report the facts of the case to her immediate superior, or the Council, in writing;
- (c) in the absence of a medical practitioner, if her position implies that she is running an antenatal/postnatal clinic, or if she is in charge of a maternity unit in a government or mission hospital organisation and her duties are supervised at regular intervals. In these cases she may give injections of drugs laid down in a schedule approved by the Council and communicated to all midwives, and no others. The onus is on her to ensure that she gives them in the correct dosage;
- (d) in an acute emergency, when she considers the life of the patient to be endangered. In such a case she shall make appropriate arrangements for the patient to be referred to a medical practitioner at the earliest opportunity if, in her opinion, the patient's life will not be jeopardised by travelling, and she shall submit a written report to her immediate superiors or the Council stating the circumstances under which she gave the injection and the preparation she used. If she considers that it would be dangerous to move the patient she should, as soon as possible, send a message to the nearest medical practitioner explaining the circumstances of the case, giving the details as aforesaid, and asking for further instructions.

(2) *Intradermal Injections* – A midwife may administer and read the results of an intradermal injection only on the written order and on the responsibility of a medical practitioner. In the absence of a medical practitioner, if her position implies that she is running an antenatal/postnatal clinic or if she is in charge of a maternity unit in a government or mission hospital organisation and her duties are supervised at regular intervals, she may give injections of drugs laid down in a schedule approved by the Council, and no others. The onus is on her to ensure that she gives them in the correct dosage.

(3) *Intravenous Injections, Intravenous Infusions and the taking of Blood from Veins*

A midwife —

- (a) may, subject to paragraphs (c) and (d), administer an intravenous injection or an intravenous infusion or take blood from a vein only on the written order and on the responsibility of a medical practitioner;
- (b) shall not under any circumstances employ the "cut-down" method in the administration of an intravenous injection or an intravenous infusion, or in the taking of blood from veins;
- (c) may, in the absence of a medical practitioner, take blood from a vein either for the purpose of doing investigations that she considers to be necessary or for the purpose of supplying blood for grouping or crossmatching;
- (d) in an acute emergency, where she considers the life of the patient to be endangered, may administer an intravenous injection otherwise than on the written order or on the responsibility of a medical practitioner. In such case she shall make appropriate arrangements for the patient to be referred to a medical practitioner at the earliest opportunity if, in her opinion, the patient's life will not be jeopardised by travelling, and she shall submit a written report to her immediate superiors or the Council stating the circumstances under which she gave the injection, the time and dosage of the injection, and the preparation that she used. If she considers that it would be dangerous to move the patient she shall, as soon as possible, send a message to the nearest medical practitioner explaining the circumstances of the case, giving the details as aforesaid, and asking for further instructions.

(4) *Blood Transfusions, Changing of Intravenous Infusions to Blood Transfusions and vice versa*

- (a) A midwife shall not, under any circumstances, insert a needle into a vein for the purpose of a blood transfusion, except on the order and in the presence and under the direction and on the responsibility of a medical practitioner:

Provided that even under these circumstances a midwife shall not employ the "cut-down" method.

- (b) Except as provided in paragraphs (a) and (c), a midwife shall not, under any circumstances, start a blood transfusion except on the order and in the presence and under the direction and on the responsibility of a medical practitioner.
- (c) A midwife may change an intravenous infusion to a blood transfusion only —
 - (i) on the written order and on the responsibility of a medical practitioner, and provided that the procedure is checked by a registered nurse or registered midwife or medical practitioner; or

- (ii) on the verbal order of a medical practitioner given by such practitioner personally, and wherever possible in the presence of a responsible witness, and on the responsibility of such practitioner, and provided that the procedure is checked by a registered nurse or registered midwife or medical practitioner. Written confirmation of such verbal order shall be obtained from the medical practitioner within a reasonable time. Should such written confirmation not be obtained within a reasonable time, the midwife shall forthwith report the facts, in writing, to her immediate superior (if any) or to the Council.
- (d) A midwife may change a blood transfusion to an intravenous transfusion only when the container has been checked by a medical practitioner, a registered nurse or a registered midwife and the actual procedure must be checked by a responsible and qualified person.
- (e) A midwife may connect up a second or subsequent container of blood only —
 - (i) on the written order and on the responsibility of a medical practitioner and provided that the procedure is checked by a registered nurse or registered midwife or medical practitioner; or
 - (ii) on the verbal order of a medical practitioner, given by the medical practitioner personally, and on his responsibility and provided that the procedure is checked by a registered nurse or registered midwife or medical practitioner. Written confirmation of such order shall be obtained from the medical practitioner within a reasonable time. Should such written confirmation not be obtained within a reasonable time, the midwife shall forthwith report the facts, in writing, to her immediate superior (if any) or to the Council.
- (f) A midwife may connect up a second or subsequent container of blood only when the container has been checked by a medical practitioner, a registered nurse or a registered midwife and the actual procedure must be checked by a responsible and qualified person.

(5) *Drugs to be used in the event of Anaphalactoid or other Severe Reactions* – A midwife shall ensure that at all times she shall have available a fresh solution of adrenalin and, if possible, injectably hydrocortisone as well as an injectable antihistamine for use in the event of anaphalactoid or other severe reactions. When giving injections of sera or drugs known to cause such reactions the midwife shall –

- (a) enquire from the patient if she is sensitive to such drugs or sera and if she is, shall ascertain from the Medical Officer if the drug shall be given;
- (b) ensure that the patient does not leave the immediate vicinity for at least half an hour and shall check the condition of the patient before she leaves. In the event of the patient refusing to comply with her request she shall record the fact in writing giving the patient's name and address and, if possible, obtain the patient's signature.

Equipment

9. When attending to a patient, a midwife shall have available all the equipment necessary for the proper conduct of her work.

Precautions to be taken and Conditions cleared before attending Patients

10. (1) When attending to a patient, a midwife shall scrupulously observe the rules of asepsis.

(2) When a midwife has been in attendance upon, or in contact with, a person who is suffering from, or suspected to be suffering from, or who has died from, or suspected to have died from, any septic infectious or contagious condition, she shall, before attending to any other patient, thoroughly disinfect herself and all her instruments and other appliances and clothing.

(3) A midwife who is suffering from a sore throat, or from any septic, infectious or contagious condition, or from any suspected septic, infectious or contagious condition, shall not attend a patient except on a medical officer's responsibility until she is completely free of such condition, or suspected condition.

Records

11. (1) A midwife shall keep a record of each case attended by her in the form of the chart currently used for maternity cases in government hospitals.

(2) A midwife shall retain the record referred to in sub-rule (1) for at least three years and shall produce such record to the Council when required to do so in writing. After three years these records shall be returned to the local District Hospital.

Administration of Drugs

12. (1) A midwife shall instil potargol 5% or argyrol 10% as a prophylactic into the eyes of the new-born infant. Protargol and argyrol shall be renewed once a month. No other solution or ointment shall be administered without the written order of a medical practitioner.

(2) A midwife may, if she considers it necessary, administer to the mother –

(a) not more than 1.20 grms. (20 grains) of Potassium Bromide;

(b) not more than 2 grms. (30 grains) of Chloral Hydrate;

(c) injections of Pethedine totalling not more than 200 mgms;

(d) not more than 1 mg. ($\frac{1}{30}$ th grain) of an ergot preparation orally or not more than 0.50 mgs. ($\frac{1}{20}$ th grain) of ergometrine by intra-muscular injection after delivery of the placenta.

In the case of the drugs mentioned in paragraphs (a) and (b) the administration of the drug may be repeated once only after four hours.

(3) If a medical practitioner is not available, or while she is awaiting the arrival of a medical practitioner, or if the assistance of a medical practitioner is refused by the patient or the responsible member of the family, and the midwife considers that the condition of the patient warrants it, the midwife may –

(a) in the case of postpartum haemorrhage, administer not more than 0.50 mgs. ($\frac{1}{20}$ th grain) ergometrine by intramuscular injection before or after the delivery of the placenta. The administration may be repeated once only;

(b) administer 1 mg. ($\frac{1}{90}$ th grain) of vitamin K by intramuscular injection in the lateral aspect of the thigh of the newborn infant in the case of haemorrhage or suspected haemorrhage or after severe asphyxia.

(4) If the patient or the responsible member of the family refuses medicine, the midwife shall endorse the record of the case accordingly and shall obtain the signature of the patient, or of the responsible member of the family, or of a witness. If it is

impossible to obtain a signature, the midwife shall forthwith report the facts of the case to the Council in writing.

Duties of the Midwife during the Antenatal Period

13. (1) On being engaged to attend a confinement, which shall also include antenatal and postnatal care, a midwife shall –

- (a) advise the patient to be medically examined at least once during pregnancy;
- (b) advise the patient to undergo a blood test;
- (c) ascertain whether any previous pregnancy ended in an abortion, or a premature labour, or a stillbirth, or whether any other abnormality occurred during any previous pregnancy, labour or puerperium, and, if so, advise the patient to seek medical advice.

(2) If the patient, for any reason, does not accept the advice, the midwife shall endorse the record of the case accordingly, and shall obtain the signature of the patient, or of a responsible member of the family, or of a witness. If it is impossible to obtain a signature, the midwife shall forthwith report the facts of the case to the Council in writing.

(3) Where possible, if the patient is to be delivered at home, the midwife shall visit the patient at least once in her own home. Where possible, the midwife shall examine the patient at least once a month until the 28th week of pregnancy, at least once a fortnight until the 36th week of pregnancy, and then at least once a week until the confinement.

Vaginal Examinations and Rectal Examinations

14. In the case of antepartum haemorrhage, the midwife shall not carry out a vaginal or a rectal examination. In all other cases, the midwife shall not make more examinations than are necessary.

Attendance upon a Patient during Labour

15. (1) A midwife in attendance upon a patient in labour shall not leave the patient without giving an address at which she can be found without delay.

(2) After the beginning of the second stage of labour she shall stay with the patient until after the birth of the child and for as long thereafter as the condition of the patient or the child may demand:

Provided that the midwife shall stay with the patient for at least one hour after the expulsion of the placenta and membranes.

Duties during Puerperium

16. (1) During the puerperium the midwife shall attend the mother and child at least once a day until such time as their conditions are satisfactory:

Provided that such attendance shall be carried out daily for at least five days following confinement.

(2) If it is impossible for her to comply with sub-rule (1) the midwife shall endorse the record of the case accordingly, giving reasons why it is impossible.

(3) The midwife shall advise the patient to be examined by a medical practitioner or at a postnatal clinic at least once during the three months following the confinement, preferably six weeks after delivery.

Breast Feeding

17. A midwife shall take all reasonable steps to promote breast feeding unless there is medical advice to the contrary.

Medical Aid

18. (1) In all cases where illness or abnormality or complication occurs in the patient or the child during the period when the midwife is in attendance, she shall forthwith, in consultation with the patient or with a responsible member of the family, refer the patient to a medical practitioner stating, wherever possible, the reason for referring her.

(2) If a medical practitioner is not available the midwife shall endorse the record of the case accordingly and notify the Council in writing forthwith.

(3) If the patient or the responsible member of the family refuses to consent to the reference to a medical practitioner, the midwife shall endorse the record accordingly and shall –

(a) obtain the signature of the patient, or of the responsible member of the family, or of a witness;

(b) if it is impossible to obtain a signature, forthwith report the facts of the case to the Council in writing.

(4) If it is impossible to consult the patient or a responsible member of the family, the midwife shall act on her own judgment, enter the facts in the record of the case and report them forthwith to the Council.

(5) The provisions of this rule apply in particular to the following illnesses, abnormalities and complications –

(a) during pregnancy – excessive vomiting; abortion, actual or threatened; loss of blood; rise in blood pressure; albumen in the urine; puffiness of hands or face or feet; excessive gain in weight; fits or convulsions; purulent discharge; sores of the genitals; deformity or stunted growth or other condition suggesting disproportion between head and pelvis; abnormal presentation after the 32nd week;

(b) during labour – fits or convulsions; purulent discharge; sores of the genitals; excessive bleeding; premature labour before the 37th week; presentation other than an uncomplicated head; when no presentation can be made out; undue prolongation of any stage of labour; excessive uterine action; foetal distress; placenta not completely expelled 30 minutes after birth of child; rupture of perineal body, or other injuries to the soft parts; if the head does not engage early in a primigravida; multiple pregnancy;

(c) during the puerperium – fits or convulsions; abdominal distension and tenderness; offensive lochia; rigor with raised temperature; rise of temperature to 100°F for 24 hours, or its recurrence within that period, or a rise of temperature to 99.4°F on two successive days; continuously rapid or steadily rising pulse rate; unusual swelling of the breasts with local tenderness or pain; excessive or prolonged bleeding; pain over the vessels of the lower limbs, especially pain in the calves of the legs; excessive sleeplessness or mental depression; retention of urine;

(d) the child – injuries received during birth; malformation or deformity (whether endangering life or not); undue feebleness, whether the child is premature or not;

inflammation of or any discharge from the eyes, however slight; serious skin eruptions, especially those marked by the formation of watery blisters; inflammation about or haemorrhage from the umbilicus; jaundice; convulsions; neonatal haemorrhage; excessive or projectile vomiting; failure to pass urine or meconium within the first 24 hours after birth; failure to gain weight after the first 10 days.

(6) The midwife shall –

- (a) if the patient is to be sent to medical aid, accompany the patient;
- (b) if the patient cannot, for any reason, be sent to medical aid, remain with the patient and do her best for the patient until the emergency is over.

PART IV

TRIAL OF MIDWIVES ACCUSED OF BREACH OF DISCIPLINE OR PROFESSIONAL ETHICS

Charge

19. When a midwife is accused of a breach of discipline or professional ethics, the Director may charge her in writing under his hand with that breach and may at any time withdraw such charge.

Service of Charge

20. The Director shall cause the charge to be served upon the midwife concerned.

Directive to Accompany Charge

21. The charge shall be accompanied by a directive calling upon the midwife charged to transmit or deliver within a reasonable period specified in the directive to a person likewise specified a written admission or denial of the charge and, if she so desires, a written explanation of the breach with which she is charged.

Effect of Admission

22. If a midwife charged as aforesaid admits the charge, she shall be deemed to be guilty of the breach of discipline or professional ethics with which she has been charged.

Trial by Council

23. If the midwife charged denies the charge or fails to comply with the directive mentioned in rule 21 the Council shall try her on the charge:

Provided that –

- (a) five members, of whom three shall be registered midwives, shall form a quorum for the purpose of such trial;
- (b) in the absence of the Director, a member nominated by him shall act as chairman of the Council for the purpose of such trial.

Summoning of Witnesses etc.

24. The Council may –

- (a) summon to attend the trial any person whose evidence appears to be material to the determination of the charge;
- (b) administer an oath or affirmation to any person so summoned or who appears to give evidence at the trial;

- (c) order the production at such trial by any person of any book or document in his possession or under his control which is relevant to the subject of the trial.

Default or Misbehaviour

25. A person who without reasonable excuse fails to attend in response to a summons or who refuses to be sworn or to affirm or who fails to answer fully to the best of his knowledge and belief any question put to him which is relevant to the trial or who, when required, refuses or fails to produce any such book or document as aforesaid, or who hinders, obstructs or intimidates any person in the giving of such evidence as may be required of him shall be guilty of an offence and liable on conviction to a fine not exceeding fifty rand or, in default of payment, to imprisonment for a period not exceeding three months, or to both such fine and imprisonment:

Provided that no person shall be compelled to answer any question which may render him liable to a criminal charge.

Notice of Time and Place of Trial

26. The Director shall fix the date, time and place of the trial and shall give the midwife charged reasonable notice in writing of the date, time and place so fixed.

Presentation of Case in Support of Charge

27. The Director may authorise a person to attend the trial and to adduce evidence and argument in support of the charge and to cross-examine any person called as a witness for the defence.

Council may be Legally Advised

28. At the request of the Director, the Attorney-General or a legally qualified member of his staff may attend the trial to advise the Council on questions of law and procedure but shall have no voice in the decisions of the Council.

Proceedings on Trial

29. (1) At the trial the midwife charged shall have the right to be present and to be heard, either personally or through a representative, to cross-examine any person called as a witness in support of the charge, to inspect any book or document produced in evidence, to give evidence herself and to call any person as a witness.

(2) The Chairman shall record or cause to be recorded the proceedings at the trial and all evidence given thereat.

(3) The failure of the midwife charged to attend the trial, either personally or by a representative, shall not invalidate the proceedings.

Acquittal or Conviction by a Court of Law not a Bar to Proceedings

30. The acquittal or the conviction of a midwife by a court of law upon a charge of a criminal offence shall not be a bar to proceedings against her in terms of this Part on a charge of breach of discipline or professional ethics, notwithstanding the fact that the facts set forth in the last-mentioned charge would, if proved, constitute the offence set forth in the criminal charge on which she was so acquitted or convicted or another offence of which she might have been convicted at her trial on the said criminal charge.

Proof of Commission of Criminal Offence

31. If the breach of discipline or professional ethics with which the midwife is charged amounts to or involves an offence of which she has been convicted by a court of

law, a certified copy of the record of her trial and conviction shall, upon the identification of such midwife as the person referred to in such record, be sufficient proof of the commission by her of such offence, unless the conviction has been set aside by a superior court:

Provided that it shall be competent for the midwife charged to adduce evidence that she was in fact wrongly convicted.

Finding

32. At the conclusion of the trial the Council shall find whether the midwife charged is guilty or not guilty of the breach of discipline or professional ethics with which she has been charged and shall inform her of its finding and shall state the reasons for such finding.

Voting

33. (1) Subject to the provisions of this rule, every question to be determined at a trial under these rules shall be determined by a majority of the votes of the members present.

(2) In the event of an equality of votes on the question of finding, the midwife charged shall be deemed to be found not guilty.

(3) In the event of an equality of votes on the punishment, or on any question arising after the commencement of a trial, except the finding, the chairman shall have a second or casting vote.

Punishment

34. If the Council should find the midwife charged to be guilty it shall proceed forthwith, after hearing any statement or evidence she may wish to make, give or adduce in mitigation -

- (a) to reprimand her; or
- (b) to suspend her from practice as a midwife for a specified period; or
- (c) to remove her name from the register;

and it shall inform her accordingly and state its reasons for the punishment imposed.

Copy of Record may be Applied for

35. If found guilty, the midwife concerned may, within seven days of being informed thereof, apply to the Director for a copy of the record of the proceedings at the trial including any documentary evidence admitted thereat and the statement of the finding and the punishment imposed and the reasons therefor.

Appeal

36. The midwife concerned may within fourteen days from the date on which she received the copy of the record of the proceedings, or, if she did not apply for a copy of the record, within twenty one days from the date on which she was informed of the Council's finding and the punishment imposed on her, appeal against the finding or the punishment or both to the Minister by giving the Director a written notice of appeal wherein she shall set forth fully the grounds upon which her appeal is based.

Record to be Forwarded to Minister

37. Within ten days of receipt of the said notice of appeal the Director shall forward to the Minister the record of the proceedings at the trial together with the notice of appeal.

Director may Submit Representations

38. If the midwife concerned has appealed in terms of rule 36 the Director may at any time before the Minister has given a decision in terms of rule 40 submit to the Minister any representations which he desires to make in support of the finding or punishment appealed against and shall furnish a copy of such representations to the midwife concerned.

Midwife may submit Reply

39. The midwife concerned may within ten days after the date on which she received a copy of the representations referred to in rule 38 submit to the Minister through the Director any reply she may wish to make to such representations.

Minister's Powers on Appeal

40. After consideration of the aforesaid record and documents the Minister may allow the appeal wholly or in part, and may set aside or reduce the punishment, or may dismiss the appeal, or may before arriving at a final decision on the appeal remit any question in connection with the trial to the Council with a direction to reopen the trial for the purpose of hearing further evidence or argument or otherwise dealing with the said question.

Reopening of Trial

41. If the Minister directs that the trial be reopened it shall be reopened in accordance with his directions before the Council composed of the same persons as before on reasonable notice to the midwife concerned.

Decision on Appeal to be Conveyed to Midwife

42. When the Minister has arrived at a final decision on an appeal he shall cause the decision to be conveyed in writing to the midwife concerned.

M.T.M. KGOPO,
Permanent Secretary.

Ministry of Education, Health and Labour,
GABERONES.
15th August, 1969.
L 2/7/114.