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MEDICAL LABORATORY SCIENTISTS, TECHNICIANS AND ASSISTANTS (DISCIPLINARY COMMITTEE) RULES 2016



ARRANGEMENT OF RULES

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S. I. No. 23 of 2016

PARAGRAPH 2(1), OF THE SECOND SCHEDULE, MEDICAL LABORATORY SCIENCE COUNCIL OF NIGERIA ACT, 2003, (CHAPTER M25, LAWS OF THE FEDERATION OF NIGERIA, 2004)

MEDICAL LABORATORY SCIENTISTS, TECHNICIANS AND ASSISTANTS (DISCIPLINARY COMMITTEE) RULES 2016

In exercise of the Powers Conferred on Me by Paragraph 2(1), of the Second Schedule to the Medical Laboratory Science Council of Nigeria Act, 2003, (Chapter M25, Laws of the Federation of Nigeria, 2004) and all other powers enabling Me in that behalf, I, Mahmud Mohammed, GCON, Chief Justice of Nigeria, hereby make the following rules :

[26th October, 2016]

1.—(i) A Complaint by any person against a Practitioner shall be forwarded in writing by the complainant or the person aggrieved to the Office of the Registrar/CEO of the Council.

Commencement.

Submission of Complaint.

(ii) The complaint so received by virtue of sub-rule (1) of this rule shall be forwarded to the Investigation Panel of the Council for investigation.

2. In any situation where in pursuance of Section 15(3) of the Act, the Panel is of the opinion that a prima facie case is established against a Practitioner, the Panel shall prepare a report of the case together with all the documents considered and formulate the appropriate charge or charges and forward them to the Registrar/CEO.

Reference of Case to Disciplinary Committee.

3. —(i) For the purpose of hearing any case of Professional misconduct against a Practitioner, which has been referred to the Disciplinary Committee by the Panel, the members of the Disciplinary Committee shall consist of seven members including the Chairman of the Governing Board.

Composition of the Disciplinary Committee.

(ii) The Chairman of the Governing Board or in his absence anyone appointed in that regard shall be the Chairman of the Disciplinary Committee.

(iii) An Assessor shall be appointed by the Board on the nomination of the Chief Justice of Nigeria in accordance with Paragraph 4 of the Second Schedule to the Act to sit with the Disciplinary Committee. It shall be the duty of the Assessor to advise the Disciplinary Committee on any question of law as evidence, procedure or other related matters specified by the Rules or as contained in the Act.

(iv) Save where the Disciplinary Committee is deliberating in private, the advice of the Assessor on questions of law as to evidence, procedure or any other matters specified by the rules or as contained in the Act shall be given in the presence of every party or their representatives, who appears thereat.

(v) Where the advice of the Assessor is tendered while the Disciplinary Committee is deliberating in private, the Assessor shall, as soon as practicable, inform each Party or his representative in writing of the questions, which have been put to him by the Disciplinary Committee and his advice thereof.

(vi) It shall be the duty of the Disciplinary Committee to inform a party or his representative whenever the advice of an Assessor is not accepted.

Parties to the Proceedings.

4.—(i) The Parties to the proceedings shall be:

(a) The Chairman of Panel

(b) The Practitioner against whom the proceedings were brought;

(c) The Complainant; and

(d) Any other person considered by the Chairman of the Disciplinary Committee to have an interest in the proceedings.

(ii) The Practitioner whose conduct is the subject of the proceedings shall be entitled to be heard by the Disciplinary Committee either personally or through a Legal Practitioner of his choice.

Appointment of Legal Practitioner to present Case.

5. The Disciplinary Committee may employ the services of a Legal Practitioner to present the case before it.

Fixing of Hearing day and Service of Notice thereof by the Registrar/CEO.

6.—(i) On the direction of the Chairman of the Disciplinary Committee, the Registrar/CEO shall fix a day for the hearing of the case and shall serve notice thereof on each party to the proceedings.

Notice of Hearing.

(ii) The notice of hearing and the charges prepared by the Panel against the Practitioner shall be served on the Practitioner by the Registrar/CEO either personally or by registered post to the address recorded in the Practitioner's file held with the Council.

Form of Notice.

(iii) The notice shall be in the form set out in the Schedule hereto and there shall be at least thirty days between the service on any such notice and the day fixed therein for the hearing.

Hearing in absence of Parties.

7. If any Party fails to appear at the hearing, the Disciplinary Committee may, upon proof of service on such party of the notice of hearing, proceed to hear and determine the case in his absence.

8. Any Party who has failed to appear at the hearing may within one calendar month from the pronouncement of the findings and direction of the Disciplinary Committee and upon giving notice to every other party and to the Registrar/CEO, apply to the Disciplinary Committee for a re-hearing. The Disciplinary Committee if satisfied that it is just that the case should be re-heard may grant the application upon such terms as to costs or otherwise as it deems fit.

Re-Hearing of Case Heard in Absence of Parties.

9.—(i) The Disciplinary Committee may in the course of its proceedings hear such witnesses and receive such documentary evidence as in its opinion may assist it in coming to a conclusion as to the veracity or otherwise of the allegations of misconduct referred to it by the Panel;

Hearing of Witnesses and Reception of Documents.

(ii) In all proceedings before the Disciplinary Committee, the provisions of the Evidence Act shall apply, as they do in Civil Proceedings.

10. Where in the course of proceedings it appears to the Disciplinary Committee that the charges forwarded to it by the Panel requires amendment or the addition of any other or further charges, the Disciplinary Committee may present such amendments or addition as it shall think fit.

Amendment of Charges.

11. If any person wilfully gives false evidence on Oath before the Disciplinary Committee during the course of any proceedings, or wilfully makes a false statement in any affidavit sworn for the purposes of any such proceedings, the Disciplinary Committee shall refer the matter to the Attorney-General of the Federation for necessary action.

Penalty for giving false Evidence.

12. The proceedings of the Disciplinary Committee shall be held in private, but its findings and directions shall be pronounced in Public.

Holding of Proceedings in Private and Pronouncement of Findings in Public.

13. The Disciplinary Committee may, of its own motion, or upon the application of any party, adjourn the hearing upon such terms as to costs or otherwise, as the Disciplinary Committee shall think fit.

Adjournment.

14. If, after the hearing, the Disciplinary Committee adjudges that the allegations of infamous conduct in a Professional respect have not been proven, the Disciplinary Committee shall record a finding that the Practitioner is not guilty of such conduct in respect of the matters to which the allegation relates.

Findings of not Guilty.

15. If, after the hearing, the Disciplinary Committee adjudges that the allegations of infamous conduct in a Professional respect have been proven, the Disciplinary Committee may, if it thinks fit, give a direction—

Findings of Guilt.

- (a) In pursuance to Section 16 (1) of the Act ; or
- (b) Review the fitness and competence of the Practitioner to practice the Profession of Medical Laboratory Science.

Costs.

16. The Disciplinary Committee may without finding any misconduct proved against a Practitioner, nevertheless order any Party to pay the costs of the proceedings if, having regard to his conduct and to all the circumstances of the case, the Disciplinary Committee shall think fit so to order.

Publication of Findings and Directions of Disciplinary Committee.

17. Subject to the provisions of Section 16 of the Act which relates to the lodging of an appeal against the direction of the Disciplinary Committee, any direction given by the Disciplinary Committee in accordance with paragraph (a) and (b) of Rule 15 hereof, shall be published in the Federal Gazette, as soon as such direction takes effect.

Record of Proceedings.

18.—(i) Notes of the proceedings shall be taken in writing by a person appointed by the Disciplinary Committee and any Party who appeared at the proceedings shall be entitled to be supplied with a copy of the record of the proceedings.

(ii) The Registrar shall supply to any person entitled to be heard upon an appeal against the direction of the Disciplinary Committee and to the Council, but to no other person, a copy of the transcript of such notes on payment of such charges as may be determined by the Registrar/CEO.

Dispensing with Provisions of Rules.

19. The Disciplinary Committee may dispense with any requirement of these Rules in respect to notices, affidavits, documents, service, or time, in any case where it appears to the Disciplinary Committee to be just so to do.

Extension of Time.

20. The Disciplinary Committee may extend the time for doing anything under these Rules, where it deems it necessary and just to do so.

Exhibits and Books to be kept by Secretary.

21. The Disciplinary Committee may order that any books, or papers or other exhibits produced or used at a hearing, be retained by the Registrar/CEO until such time within which an appeal may be entered has expired, and if notice of appeal is given, until the appeal is heard or otherwise disposed of.

Interpretation.

22. In these Rules, unless the context otherwise requires
 "Act" means the Medical Laboratory Science Council of Nigeria Act, (CAP, M25, LFN, 2004) ;
 "Panel" means the Investigation Panel of the Council ;
 "Board" means the Governing Board of the Medical Laboratory Science Council of Nigeria ;

"Disciplinary Committee" means the Medical Laboratory Science Council of Nigeria Disciplinary Committee;

"Complainant" means any person who makes an allegation of Professional misconduct against a Practitioner;

"Practitioner" means a registered Medical Laboratory Scientist, Medical Laboratory Technician and Medical Laboratory Assistant;

"Registrar/CEO" means a person appointed to act as the Registrar/CEO of the Medical Laboratory Science Council of Nigeria;

23. These Rules may be cited as the Medical Laboratory Scientists, Technicians and Assistants (Disciplinary Committee) Rules. Citation.

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23. These Rules may be cited as the Medical Laboratory Scientists, Technicians and Assistants (Disciplinary Committee) Rules. Citation.

SCHEDULE

NOTICE OF HEARING BY THE DISCIPLINARY COMMITTEE
IN THE MATTER OF A.B., A MEDICAL LABORATORY SCIENTIST/TECHNICIAN/ASSISTANT
AND
IN THE MATTER OF MEDICAL LABORATORY SCIENCE COUNCIL OF NIGERIA ACT

TAKE NOTICE that the report and charges prepared by the Investigation Panel in the above matter is fixed for hearing by the Disciplinary Committee at on the day of 20..... at 0'clock in the forenoon.

A copy of the report and other related Documents are attached hereto.

DATED this day of 20.....

.....
Registrar/CEO of the Council

MADE at Abuja this 26th day of October, 2016

MAHMUD MOHAMMED, GCON
Chief Justice of Nigeria

EXPLANATORY NOTE

(This note does not form part of the above Rules but is intended to explain their purport)

These Rules provide for the appointment of the Medical Laboratory Scientists, Technicians and Assistants (Disciplinary Committee) and rules procedure to be followed by the said Committee in the conduct of Disciplinary Proceeding.