



CODE OF CONDUCT FOR PHARMACISTS AND BODIES CORPORATE

PHARMACY BOARD MALAYSIA
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CONTENTS

| | |
|--|--------------|
| PART ONE : INTRODUCTION | 1-3 |
| 1. Preamble | 1 |
| 2. Use of Terms | 1-2 |
| 3. Statement on Infamous or Disgraceful Conduct in a Professional Sense and Misconduct | 3 |
| PART TWO : CODE OF CONDUCT | 4-21 |
| ARTICLE 1 Professional Responsibility | 4-15 |
| 1.1 Responsibility for Standards of Professional Practice | 4-10 |
| 1.2 Professional Development and Contributions To Society | 10-11 |
| 1.3 Relationship with Pharmacists and Members of the Allied Profession | 12 |
| 1.4 Dispensing | 12-13 |
| 1.5 Delegation of Duties | 13-14 |
| 1.6 Pharmaceutical Research | 14-15 |
| 1.7 Continuing Education | 15 |
| 1.8 Relationship with the Pharmaceutical Industry | 15 |
| ARTICLE 2 Abuse of Professional Privileges and Skills | 16-19 |
| 2.1 Abuse of Privileges Conferred by Law | 16-19 |
| 2.2 Abuse of Privileges Conferred by Custom | 19 |
| ARTICLE 3 Conduct Derogatory to the Reputation of the Profession | 19-21 |
| 3.1 Respect for Human Life | 19 |
| 3.2 Personal Behaviour | 20-21 |
| 3.3 Conflict of Interest | 21 |
| ARTICLE 4 Advertising, Canvassing and Related Professional Offences | 21 |

| | |
|--|--------------|
| PART THREE: DISCIPLINARY JURISDICTION AND PROCEDURE | 22-32 |
| 1. DISCIPLINARY JURISDICTION OF THE BOARD | 22-26 |
| 1.1 In Respect of Registered Pharmacists | 22-23 |
| 1.2 In Respect of a Registered Body Corporate | 24-25 |
| 1.3 In Respect of Any Executor, Administrator or Trustee of a Deceased Registered Pharmacist's Estate. | 25-26 |
| 1.4 Definition of Misconduct, Infamous or Disgraceful Conduct in a Professional Sense | 26 |
| 2. PROCEDURE OF INQUIRY | 26-31 |
| 2.1 Complaints Against a Registered Pharmacist and a Body Corporate | 27 |
| 2.2 Committee of Inquiry | 27-28 |
| 2.3 Investigation by the Committee of Inquiry | 28-29 |
| 2.4 Summary Dismissal of Complaint or Information | 29 |
| 2.5 Inquiry by the Board | 29-31 |
| 2.6 Appointment and Payment of Legal Advisor | 31 |
| 2.7 Members Who Are Disqualified From Any Meeting of the Board Inquiring Into Any Disciplinary Matter | 31 |
| 3. PUNISHMENTS | 32 |
| 4. APPEAL | 32 |
| APPENDIX I | 33 |
| Convictions in a Court Of Law | |
| APPENDIX II | 34-35 |
| Duties and Responsibilities of a Superintendent | |

CODE OF CONDUCT FOR PHARMACISTS AND BODIES CORPORATE

by
PHARMACY BOARD MALAYSIA

PART ONE: INTRODUCTION

1. PREAMBLE

In the pharmacy profession, the health and welfare of the public has always been and will continue to be the foremost concern among pharmacists. For this principle to be consistently placed above all other considerations in the practice of pharmacy, this Code of Conduct for Pharmacists and Bodies Corporate has embodied the minimum standards of proper conduct and professionalism for guidance of pharmacists. These standards also serve as a reference when the Board considers cases of misconduct in a professional sense.

2. USE OF TERMS

For the purpose of this Code of Conduct-

"Act" means the Registration of Pharmacists Act 1951;

"allied profession" means any profession involved in the provision of health care to, or treatment of diseases or conditions of, man or animals;

"annual certificate" means an annual certificate issued under section 16 of the Act;

"the Board" means the Pharmacy Board established under section 3 of the Act;

"body corporate" means a body corporate whose name appears for the time being in the register kept under section 13 of the Act;

"the Code" means the Code of Conduct for pharmacists and bodies corporate;

"dangerous drug" has the meaning assigned to it in the Dangerous Drugs Act 1952;

"drug" has the meaning assigned to it in the Sale of Drugs Act, 1952;

"pharmacist" means a registered pharmacist in the Act;

"poison" has the meaning assigned to it in the Poisons Act 1952;

"register" used with reference to a pharmacist or a body corporate means the register under the provisions of the Act applicable to the registration of pharmacists or bodies corporate respectively;

"the Regulations" means the Registration of Pharmacists Regulations 2004;

"superintendent" means the superintendent of a body corporate described under section 13 of the Act.

3. STATEMENT ON INFAMOUS OR DISGRACEFUL CONDUCT IN A PROFESSIONAL SENSE AND MISCONDUCT

For the purpose of Section 17 (1) (c) of the Act, any pharmacist found guilty of any breach of the Code by the Board after due inquiry under the Regulations, shall be deemed to be in the opinion of the Board, guilty of infamous or disgraceful conduct in a professional sense, and shall be liable to such disciplinary action by the Board as the Board deems fit under the provisions of the Act.

Similarly, for the purpose of Section 13 (7) (b) (iii) of the Act, any director, or officer of or other person in the employment of any body corporate found guilty by the Board of any breach of the Code, shall be deemed to be in the opinion of the Board, guilty of misconduct and such body corporate shall be liable to such disciplinary action by the Board as the Board deems fit under the provisions of the Act.

PART TWO: CODE OF CONDUCT

It must already be understood that the particulars which are given below do not constitute, and are not intended to constitute a complete enumeration of the professional matters, the breach of which may entail disciplinary proceedings by the Board. It does not in any way preclude the Board from considering and dealing with any form of infamous and disgraceful conduct in a professional sense and misconduct, although the subject matter may not appear to come within the scope or precise wording of any of the categories set forth in this Code. Circumstances may and do arise from time to time in relation to which there may occur questions on conduct which do not come within these categories. In such instances as in all others, the Board shall be considered the judge upon the facts brought before it.

ARTICLE 1: PROFESSIONAL RESPONSIBILITY

1.1 Responsibility for Standards of Professional Practice

1.1.1 A pharmacist when providing any professional service or intervention must do so on the basis of accurate and current information for which they are qualified in their area of competence and within their scope of practice. The pharmacist shall maintain the highest professional standard in the discharge of his professional service to his patients or clients.

The Professional Standards Are:

(a) Health and Safety of Patient or Clients

- (i) Pharmacists must have specialized knowledge about medicines, health related products, medicinal and complimentary therapies and are expected to use this knowledge to benefit their patients or clients.
- (ii) Pharmacists are aware of the limitations of their knowledge and skills and refer patients to appropriate health care professionals when they are unable to meet the needs of their patients or clients.
- (iii) Pharmacists supply only prescription and nonprescription medicines and health related products that are safe, effective and of good quality.

(b) Professional Relationship With Patient or Clients

- (i) Pharmacists respect the professional relationship with the patient or clients and act with honesty, integrity and compassion.
- (ii) Pharmacists determine the patient needs, values and desired outcomes.
- (iii) Pharmacists seek to involve their patients or clients in the decisions regarding their health.

(c) Autonomy, Values and Dignity of Patient or Clients

- (i) Pharmacists provide their patients or clients with information that is truthful, accurate and understandable so that the patients or clients are able to make informed choices about health care.
- (ii) Pharmacists are committed to each patient or client regardless of race, religion, gender, sexual orientation, age or health.
- (iii) Pharmacists respect the informed decisions of competent patients or clients who choose to refuse treatment/services and live at risk.
- (iv) Pharmacists respect the dignity of patients or clients with diminished competence and seek to involve them, to an appropriate extent, in decisions regarding their health.
- (v) It should be noted these provisions should apply to any advice given with regards to any medicine, complementary therapy or other healthcare product provided by any means whatsoever, including the internet and other electronic media.

(d) Respect and Protect the Patient's or Client's Right of Confidentiality

- (i) Pharmacists keep confidential all information acquired in the course of professional practice.
- (ii) Pharmacists may disclose prescription information for ethical reasons (e.g. scientific research) only if the information will not identify the patient or client.

- (iii) Confidential information is disclosed only in cases where the patient or client (or the patient's or client's agent) provides consent, where the law demands or where disclosure will protect the patient or clients or others from harm.

(e) Respect the Rights of Patients or Clients to Receive Pharmacy Services

- (i) Pharmacists who are unable to provide prescribed medicines or services to their patients or clients shall take reasonable steps to ensure these medicines or services are provided and the patient's or client's care is not jeopardized.
- (ii) Pharmacists who are unwilling to provide prescribed medicines or services to patients or clients because of moral or religious reasons shall inform pharmacy management of their objections at the onset of employment. Pharmacy management shall provide reasonable accommodation of the pharmacist's right of conscience and develop an alternate means of providing the medicines or services. The alternate means shall be timely and convenient for the patient or client.
- (iii) Pharmacists have a duty, through communication and co-ordination, to ensure the continuity of care of patients or clients during pharmacy relocation or closure, job action, natural disasters or situations where continuity of care may be problematic.

1.1.2 A pharmacist shall maintain the highest professional standard in his conduct, and in his professional relations with members of his own profession and other allied professions.

- (a) Pharmacists obey the laws, regulations, standards and policies of the profession both in letter and in spirit.
- (b) Pharmacists do not condone breaches of the law, regulations, standards or policies by colleagues, co-workers or owners of a pharmacy and report, without fear, such breaches.
- (c) Pharmacists accept the ethical principles of the profession and do not engage in activity that will bring discredit to the profession.
- (d) Pharmacists do not abuse drugs or alcohol, do not condone the abuse of drugs or alcohol by colleagues or co-workers and report, without fear, such abuse.
- (e) Pharmacists do not practice under conditions which compromise their freedom to exercise professional judgment or which cause a deterioration of the quality of their professional service or care.
- (f) Pharmacists do not seek more than fair and reasonable remuneration for their professional services.
- (g) Pharmacists do not enter into arrangements with prescribers that could affect the prescriber's independent professional judgments in prescribing or that could interfere with the patient's right of choice of a pharmacy.

- (h) Pharmacists do not accept inducements from suppliers that could reasonably be perceived as affecting the pharmacist's independent professional judgment.
- (i) Pharmacists advertise and promote themselves only via methods which uphold the dignity and honour of the profession and which are within the boundaries of the existing legislation.

1.1.3 Relationship with Pharmacists and members of the allied profession.

- (a) Pharmacists respect the values and abilities of colleagues and other health care professionals.
- (b) Keeping confidentiality in mind, pharmacists consult with colleagues or other health care professionals to benefit the patient. If appropriate, pharmacists refer their patients to other health care professionals or agencies.
- (c) Pharmacists maintain professional relationships with colleagues and ensure patient's needs are met when supplying colleagues with transfer copies of prescriptions, inventory, etc.

1.1.4 A Pharmacist must neither agree to practice under conditions which may compromise their professional independence, judgment or integrity, nor impose such conditions on other pharmacists.

- (a) A pharmacist must freely exercise professional judgment when carrying out the duties of a pharmacist and should not accept employment in which this freedom may be compromised.

- (b) A pharmacist managing an environment in which other pharmacists are employed must ensure the professional autonomy of those pharmacists is preserved.
- (c) A pharmacist must avoid situations likely to present a conflict of interest or compromise the objectivity of their professional practice.

1.2 Professional Development and Contributions To Society

1.2.1 Pharmacists should continuously improve their levels of professional knowledge and skills by continually evaluating and improving their professional competence.

1.2.2 Pharmacists participate in the enhancement of the profession of pharmacy.

- (a) Pharmacists associate with organisations that strive to improve the profession of pharmacy.
- (b) Pharmacists contribute to the future of the profession by participating, willingly and diligently, in the education of students and candidates for registration.
- (c) A pharmacist must endeavour to foster the future development of the profession by encouraging and mentoring students, pre-registrants and newly registered pharmacists in their professional development. He shall be a willing, sincere as well as diligent preceptor and be seen as a role model. He should demonstrate to them that competence and character are inseparable for a professional. The new graduates are expected to acquire the character traits and professional values that are inherent to the profession.

1.2.3 Pharmacists contribute to the health care system and to societal health needs.

- (a) Pharmacists support positive changes in the health care system by actively influencing and participating in health policy development, review and revision.
- (b) Pharmacists support cost-effective therapies.
- (c) Pharmacists support the prudent use of health care resources.
- (d) Pharmacists participate in programs to educate the public about health.
- (e) Pharmacists foster the advancement of knowledge by supporting appropriate research projects, wherever possible.
- (f) Pharmacists support environmental issues related to pharmacy by promoting the safe disposal of drugs and related products.
- (g) In the provision of consultation or professional advice, a pharmacist shall, with due regard to the interest of the patient or client, strive to provide such information that is truthful, accurate and without bias.

1.2.4 Notification of the availability of 24 hour pharmacy services may be on doorplate pertaining to practicing hours of the pharmacist or on the existing pharmacy signboard. Registered pharmacists having valid licence should be available at all times and his availability should be within a reasonable period of time not exceeding 30 min.

1.2.5 In the event that an emergency arises, the pharmacist may inform patients or clients by means of notice of his availability.

1.3 Relationship With Other Pharmacists and Members of The Allied Profession

1.3.1 In his practice, a pharmacist shall not by words or deed or by inference thereof discredit or disparage the professional integrity, or judgment, or skill of another pharmacist or of a member of an allied profession.

1.3.2 In dispensing a prescription, a pharmacist shall not attempt to secure for himself the care of the patient whose prescription had been dispensed.

1.3.3 In conformity with his own sense of responsibility, a pharmacist shall refer a patient or client to members of other allied professions when, in the opinion of the pharmacist, the interest of the patient or client, is better served by members of that profession.

1.4 Dispensing

When any doubt arises in the interpretation of a prescription accepted by a pharmacist, he shall consult the prescriber and shall not alter the prescription unless with the approval of the prescriber or in an emergency.

The therapeutic efficacy of prescriptions shall not be discussed with patient or others in such a manner as to impair confidence in the prescriber.

A pharmacist who has accepted a prescription for dispensing, shall dispense the prescription exactly in accordance with the prescriber's wishes. A pharmacist must not (except with the approval of the prescriber, or in an emergency) substitute any product for a specifically named product, even if the

therapeutic effect and quality of both product are identical.

Where there are errors in dosage or potential drug interactions, the pharmacist must inform the prescriber immediately in a discreet manner, so as not to alarm the patient.

1.5 Delegation of Duties

1.5.1 Employment of Unqualified or Non-registered Persons

The employment by pharmacists or Body Corporate of any person not qualified or registered under the Act, and the permitting of such unqualified or non-registered person to perform any task, which would otherwise require the supervision of a pharmacist, or which requires the professional discretion or skill of a pharmacist, is in the opinion of the Board in its nature fraudulent and dangerous. All pharmacists are required to abstain from such fraudulent and dangerous practice.

1.5.2 Supervision and Responsibility

In the event where persons other than pharmacists are required to perform any act which requires the supervision of a pharmacist, the pharmacist shall be available for immediate consultation and in full control of the person and the act performed.

The pharmacist shall ensure that the supporting staff to whom tasks are delegated, have the competencies necessary for the efficient and effective undertaking of these tasks and that all information provided to patients, other members of the public and other health professionals is accurate and given in a

manner designed to ensure that it is understood. Pharmacist shall not delegate responsibility requiring professional judgment except to another registered pharmacist.

1.6 Pharmaceutical Research

In the scientific application of pharmaceutical research carried out on human beings it is the duty of the pharmacist to uphold the sanctity of human life.

1.6.1 A pharmacist shall not be a party to any research on human beings unless the research proposal has been approved by the appropriate ethics committee.

- (a) each potential subject has been adequately informed of the aims, methods, anticipated benefits and potential hazards of the study and the discomfort it may entail;
- (b) the subject has been informed that he is at liberty to abstain from participation in the study and that he is free to withdraw his consent to participate at any time;
- (c) the subject of his own free will, has given written consent to participate in the study.

1.6.2 The pharmacist can combine scientific research with professional care, the objective being the acquisition of new knowledge, only to the extent that the research is justified by its potential value for the patient.

1.6.3 A pharmacist shall use great caution in divulging discoveries through non-professional channels.

1.6.4 The results of any research on human subjects should not be suppressed whether adverse or favourable.

1.7 Continuing Education

A pharmacist shall strive to keep abreast of new knowledge and advancement relevant to his practice by actively engaging himself in continuous study throughout his professional life in order to merit the confidence in his professional competence.

1.8 Relationship with the Pharmaceutical Industry

The pharmacist and the pharmaceutical industry have a common interest in the promotion and care of the health of the public. Although the closest co-operation between the pharmacist and the pharmaceutical industry is encouraged:

1.8.1 A pharmacist shall avoid a situation, whereby he, by accepting any financial or material inducement, would compromise his professional judgement on the choice of drug for his patient or client.

1.8.2 A pharmacist shall not participate in the promotion of a drug which involves the supply of such drug without discrimination to his patient or client or which by-passes his professional function.

1.8.3 To sustain public confidence in the profession, a pharmacist shall not only choose but also be seen to be choosing the drug which, in his professional judgement and having due regard to economy and rational drug use, will best serve the interest of his patient or client.

ARTICLE 2: ABUSE OF PROFESSIONAL PRIVILEGES AND SKILLS

2.1 Abuse of Privileges Conferred by Law

The law confers upon the pharmacist certain privileges pertaining to the sale, supply, import, export, manufacture and generally dealing in drugs. The transactions in such drugs are subjected to statutory control.

2.1.1 Sale of Drugs and Medical Devices

The sale or supply of medical devices and drugs including drugs of dependence shall only be made in the course of *bona fide* treatment. No drugs should be sold or supplied in order to gratify the pharmacist's own or any other person's gratification.

A pharmacist shall not sell or supply any drug or medical device where he has any reason to doubt its safety, quality or its therapeutic value, and shall not condone or assist in the dispensing promotion, or distribution of such drugs or devices. It is unethical for a pharmacist to sell or supply any unregistered product unless with approval.

A pharmacist shall take into due consideration the needs and welfare of his patient or client and shall not sell or supply drugs, medical devices or health products which are unnecessary or likely to be misused or abused or in such amounts which are excessive.

A pharmacist who solicits patients or clients to purchase drugs, medical devices or health products commits a discreditable act.

2.1.2 Dangerous Drugs

All pharmacists shall abstain from abusing the privileges conferred upon them under the Dangerous Drugs Act 1952 and the Regulations made thereunder.

2.1.3 Sale of Poisons and Psychotropic Substances

It is professionally discreditable and fraught with danger to the public when a pharmacist or body corporate employs an unqualified person who is left in charge of a shop selling or supplying poisons, under the cover of the qualifications of such pharmacist or any other pharmacist employed by such pharmacist or body corporate. No pharmacist or body corporate shall take part in whether by act or omission, or be a party to such discreditable and dangerous practice.

In the sale or supply of poisons, a pharmacist shall take reasonable precautions and measures to ascertain that such poisons sold or supplied are in fact sold or supplied and delivered to bona fide authorised person and for authorised purposes.

In the sale, supply or dealing with psychotropic substances, a pharmacist shall abstain from abusing the privileges conferred to them under the Poisons (Psychotropic Substances) Regulations 1989. The pharmacist shall comply with the storage and records of transactions pertaining to psychotropic substances under the regulations.

2.1.4 Accountability

It is a privilege for a pharmacist to be a legal custodian of poisons, psychotropic substances and dangerous drugs. By conferring this privilege upon him, not only is he held accountable for such substances as required by law, but, from a moral and ethical point of view, he is expected to exercise professional accountability,

Concurrent with this, the Board is also of the opinion that a body corporate is equally bound to exercise the same degree of accountability as required of a pharmacist. This responsibility is trusted upon a body corporate in return for permitting it to carry on a business of keeping, retailing, dispensing and compounding of poisons, dangerous drugs and therapeutic substances.

2.1.5 Covering

A pharmacist shall not allow any other person to use his licence to cover any dealing in poisons, psychotropic substances or dangerous drugs. All transaction of poisons, psychotropic substances and dangerous drugs shall be *bona fide* conducted by the pharmacist or under his immediate personal supervision as provided under the existing legislation.

2.1.6 Certificates and Documents of a Kindred Character

Pharmacists may from time to time be called upon or requested to give certificates and other documents of a kindred character, signed by them in their practice for administrative purposes.

Pharmacists are expected to exercise the most scrupulous care in issuing such documents and shall not sign or give under his name and authority any such certificate or document which is untrue, misleading or improper.

2.2 Abuse of Privileges Conferred by Custom

A good professional practice depends upon the maintenance of trust between pharmacists and their patients or clients, and the understanding of both parties that proper professional relationship be strictly observed. The pharmacist shall exercise great care and discretion in order not to injure this crucial relationship.

2.2.1 Abuse of Confidence

A pharmacist shall not improperly disclose information which he obtains in confidence from or about a patient or client unless there is a legal need of the disclosure.

2.2.2 Undue Influence

A pharmacist may not exert improper influence upon a patient to receive any monetary, return or benefit.

ARTICLE 3: CONDUCT DEROGATORY TO THE REPUTATION OF THE PROFESSION

3.1 Respect for Human Life

The utmost respect for human life should be maintained even under threat, and no use should be made of any professional knowledge contrary to the laws of humanity.

3.2 Personal Behaviour

A pharmacist is expected at all times to observe proper standards of personal behaviour and decency not only in his Professional activities but at all times to uphold the high public reputation of the profession.

3.2.1 Personal Misuse of Alcohol or Drugs

A pharmacist who performs any professional duty while in a state of intoxication by alcohol or under the influence of drugs commits a discreditable act. No pharmacist shall practice in such a state. Drug abuse by a pharmacist is professionally discreditable.

3.2.2 Dishonesty.

A pharmacist shall be liable to disciplinary proceedings if he is convicted of criminal deception, forgery, fraud, theft or of any other offence involving dishonesty.

A pharmacist shall not sell or supply with prior knowledge any drug or medical device which is defective or is incapable of serving the purpose it is intended for or is falsely or fraudulently labelled or presented.

A pharmacist shall not act for improper motives. A pharmacist's motive is considered improper if he sells or supplies any drug or medical device purely for his financial or material benefit, or if such act is motivated by his acceptance of an improper inducement from the supplier of the drug or medical device.

Fee-splitting or any form of kick back arrangements as an inducement to refer patients or clients to other

members of the allied profession may be regarded as unethical. A pharmacist shall not recommend a particular member of the allied profession or a medical practice unless so requested by his patient or client seeking medical advice.

3.2.3 Indecency and Violence

Any conviction for assault or indecency is derogatory to the dignity of the profession and thus regarded as a serious breach of conduct and will be viewed with particular gravity if the offence is committed in the course of a pharmacist's professional duties or against his patients or colleagues.

3.3 Conflict of Interest

The pharmacist shall avoid any situation in which there is a conflict of interest with the patient.

ARTICLE 4: ADVERTISING CANVASSING AND RELATED PROFESSIONAL OFFENCES

The practice by a pharmacist of advertising, whether directly or indirectly, for the purpose of promoting his own professional advantage; or for such purpose of procuring or sanctioning, or acquiescing in, the publication of notices commending or directing attention to the professional skill, knowledge, services or qualifications, or depreciating those of others; or of being associated with such advertising or publication, is contrary to public Interest and discreditable to the profession.

The Board recognises that the profession has a duty to disseminate information about advances in pharmaceutical sciences and therapeutics provided it is done in an ethical manner.

PART THREE: DISCIPLINARY JURISDICTION AND PROCEDURE

1. DISCIPLINARY JURISDICTION OF THE BOARD

1.1 In Respect of Registered Pharmacists :

Board may initiate disciplinary proceedings against any registered pharmacist under the provisions of subsection 17 (1) (a), (b) and (c) of the Act which read:

If it comes to the knowledge of the Board that a registered pharmacist-

- (a) has obtained registration by a fraudulent or incorrect statement; or
- (b) has been convicted of any offence (See Appendix I on "Convictions in a court of law") which, in the opinion of the Board, renders him unfit to be on the register or of any offence (see Appendix I on "Convictions in a court of law") under the this Act or under any written law in force in Malaysia relating to poisons, dangerous drugs or therapeutic substances; or
- (c) has been guilty of infamous or disgraceful conduct in a professional sense."

The Board may initiate disciplinary proceedings against any registered body corporate under the provisions of subsection 13(7):

"13 (7) If-

- (a) a body corporate carrying on a business which comprises the retail sale of poisons,

dangerous drugs or therapeutic substances has been convicted of an offence under this Act or under any written law relating to poisons, dangerous drugs or therapeutic substances in force; or

- (b) any director or officer of or any other person in the employment of any such body-
 - (i) has been convicted of an offence under this Act or the aforesaid written laws;
 - (ii) has been convicted of any other criminal offence which in the opinion of the Board renders him, or would if he were a registered pharmacist render him liable to any of the punishments under section 18A; or
 - (iii) has been guilty of any misconduct which, in the opinion of the Board, renders him, or would if he were a pharmacist render him;

the Board may inquire into the case and may, unless the body corporate satisfies the Board that the act or omission in question was not connived at or instigated by their superintendent or by any of their directors or managers, and that the person guilty thereof is no longer in their employment, refuse to register such body corporate or, in the case of a body corporate already registered if it deems fit, impose any of the punishments under section 18A.

1.2 In Respect of a Registered Body Corporate

Section 13(7) of the same Act,

“ If –

- (a) a body corporate carrying on a business which comprises the retail sale of poisons, dangerous drugs or therapeutic substances has been convicted of an offence under this Act or under any written law relating to poisons, dangerous drugs or therapeutic substances in force; or
- (b) any director or officer of or other person in the employment of any such body –
 - (i) has been convicted of an offence under this Act or the aforesaid written laws;
 - (ii) has been convicted of any other criminal offence which in the opinion of the Board renders him, or would if he were a registered pharmacist render him, liable to any of the punishments under section 18A; or
 - (iii) has been guilty of any misconduct which, in the opinion of the Board, renders him, or would if he were a registered pharmacist render him, liable to any of the punishments under section 18A;

the Board may inquire into the case and may, unless the body corporate satisfies the Board that the act or omission in question was not connived

at or instigated by their superintendent or by any of their directors or managers, and that the person guilty thereof is no longer in their employment, refuse to register such body corporate or, in the case of a body corporate already registered, if it deems fit, impose any of the punishments under section 18A”

1.3 In Respect of Any Executor, Administrator or Trustee of A Deceased Registered Pharmacist’s Estate.

Section 14(1) states that -

“Subject to this section, if a registered pharmacist dies while carrying on a business which comprises the retail sale of poisons, dangerous drugs or therapeutic substances, any executor, administrator or trustee of his estate who carries on the business after his death in accordance with the conditions hereinafter mentioned shall be entitled to use in connection with the business such titles and descriptions as might have been used by the deceased registered pharmacist”

However, Subsection (3) of the same section cautioned that

“If any such executor, administrator or trustee or any person in his employment -

- (a) has been convicted of an offence under this Act or under any written law relating to the therapeutic substances, or dangerous drugs or poisons for the time being in force in Malaysia; or

- (b) has been convicted of any other criminal offence, or been guilty of any misconduct, which, in the opinion of the Board, renders him, or would if he were a registered pharmacist render him, liable to any of the punishments under section 18A.

the Board may inquire into the case and may, unless in the case of an act or omission by a person in his employment, the executor, administrator or trustee satisfies the Board that the act or omission in question was not connived at or instigated by him, direct that he shall cease to be entitled to use any title or description which might have been used by the deceased pharmacist”

1.4. Definition Of Misconduct, Infamous Or Disgraceful Conduct In A Professional Sense

Disreputable behaviour, a breach of professional responsibility or requirement identified in the Code could form the basis of a complaint of professional misconduct. The Board or its Committee of Inquiry in considering whether or not action should follow, may take into consideration the circumstances of an individual case and do not regard themselves as being limited to those matters which are mentioned in the code only.

2. PROCEDURE OF INQUIRY

The Registration of Pharmacists Regulations 2004 provides the following procedures pertaining to disciplinary inquiry : -

2.1 Complaints Against A Registered Pharmacist and A Body Corporate

In accordance with Regulation 14;

(1) any person who seeks to make a complaint against or submit an information of a registered pharmacist or body corporate shall make the complaint or submit the information to the Secretary of the Board, who shall then refer that complaint or information to the Board.

(2) Where the Board has received a complaint or information under subregulation (1) and it is satisfied that there may be sufficient grounds for the complaint or information, it shall appoint a Committee of Inquiry to investigate the complaint or information.

2.2 Committee of Inquiry

In accordance with Regulation 15;

(1) Every Committee of Inquiry shall comprise of five fully registered pharmacists and each of them having a valid annual certificate.

(2) The Board may at any time revoke the appointment of any member of any Committee of Inquiry or may remove any member of any Committee of Inquiry or fill any vacancy in any Committee of Inquiry.

(3) The Board shall nominate a member of a Committee of Inquiry to be the Chairman of the Committee of Inquiry.

(4) The quorum of a Committee of Inquiry shall be three.

(5) The Chairman shall preside at all meetings of the Committee of Inquiry.

(6) The decision of a Committee of Inquiry shall be by a majority.

2.3 Investigation By The Committee Of Inquiry

In Accordance with Regulation 16;

(1) Prior to the commencement of the investigations by the Committee of Inquiry, the Secretary of the Board shall forward a notice by registered post to the registered pharmacist or body corporate at his or its last known address, which shall –

- (a) state the complaint against or information of the registered pharmacist or body corporate;
- (b) require the registered pharmacist or body corporate to provide a written explanation regarding the complaint or information to the Committee of Inquiry within such period as specified in the notice, but such period shall not be less than fourteen days from the date of the notice; and
- (c) request the registered pharmacist or body corporate to attend and give evidence before the Committee of Inquiry, where required to do so.

(2) the Committee of Inquiry shall, after the period as specified in paragraph (1)(b), commence the investigation of the complaint or information and shall give the registered pharmacist or body corporate reasonable opportunity to be heard, and due consideration shall be given to any explanation that may be given by the registered pharmacist or body corporate.

(3) the Committee of Inquiry shall upon completion of its investigation of the complaint or information, submit a report together with its recommendation to the Board for its consideration.

2.4 Summary Dismissal Of Complaint Or Information

In accordance with Regulation 17;

The Committee of Inquiry to which such complaint or information has been forwarded, may recommend to the Board to summarily dismiss any complaint or information if the Committee of Inquiry is satisfied –

- (a) that the name and address of the complainant or informant is unknown or untraceable;
- (b) that even if the facts were true, the facts do not constitute a matter provided under subsection 13(7) or 17(1) of the Act; or
- (c) for reasons which must be recorded, that there is reason to doubt the truth of the complaint or information.

2.5 Inquiry By The Board

In accordance with Regulation 18;

(1) Upon receipt of a report from the Committee of Inquiry and on its recommendation, the Board shall, where it is satisfied that there are grounds for the complaint or information against the registered pharmacist or body corporate –

- (a) cause a charge containing the facts of the complaint or information alleged to have been committed by the registered pharmacist or body corporate to be forwarded by registered post to him or it at his or its last known address;
- (b) request the registered pharmacist or body corporate to attend the inquiry to be convened by the Board in pursuant of subsection 13(7) or 17(1) of the Act; and
- (c) inform the registered pharmacist or body corporate that an opportunity to be heard may be given to him or it, where –
 - (i) in the case of the body corporate, it may be heard by a representative appointed in writing or by counsel;
 - (ii) in the case of any director, officer or other person in the employment of the body corporate, he may be heard either personally or by counsel; or
 - (iii) in the case of a registered pharmacist, he may be heard either personally or by counsel.

(2) Where the registered pharmacist or body corporate, without reasonable excuse, fails to attend the inquiry convened by the Board, the Board may proceed to hear the case notwithstanding the absence of registered pharmacist or body corporate, if the Board is satisfied that provisions; of subregulation (1) have been complied with.

(3) The Board may regulate its own procedure in such a manner as it deems fit.

2.6 Appointment and Payment of Legal Advisor

In accordance with Regulation 19;

(1) The Board or Committee of Inquiry may appoint a legal adviser to assist the Board or Committee of Inquiry during any inquiry.

(2) The Board or Committee of Inquiry may appoint any person who is and has been advocate and solicitor for a period of not less than five years to advise it on –

(a) all questions of law ensuing in the course of the inquiry; and

(b) the meaning and construction of all documents produced during the inquiry.

(3) The legal adviser is entitled to be paid such fees as are from time to time fixed by the Board.

2.7 Members Who Are Disqualified From Any Meeting Of The Board Inquiring Into Any Disciplinary Matter

In accordance with Regulation 20;

No member of the Board or Committee of Inquiry shall attend or participate in any meeting of the Board or Committee of Inquiry inquiring into any disciplinary matter if –

(a) he is the complainant; or

(b) he is personally acquainted with any relevant fact.

3. PUNISHMENTS

In accordance with Section 18(A) of the Act,

Subsection (1), the Board may, at conclusion of an inquiry under section 13(7) or section 17(1), impose any of the following punishments;

- (a) order the name of the registered pharmacist or body corporate to be removed from the register;
- (b) order the name of the registered pharmacist or body corporate to be suspended from the register for such period as it may think fit; or
- (c) order the registered pharmacist or body corporate to be reprimanded.

Subsection (2) the Board may also, at conclusion of the inquiry mentioned in subsection (1)-

- (a) order the registered pharmacist or body corporate to pay costs to the Board or complainant where an order under any of the paragraphs in subsection (1) is made;
- (b) order the complainant to pay costs to the registered pharmacist or body corporate where no case has been made out against the registered pharmacist or body corporate,

and such cost may be recovered as a civil debt.

4. APPEAL

In accordance with Section 19 of the said Act, any person or body corporate aggrieved by any punishments imposed by the Board under Section 18A, or by any refusal or failure to enter his or its name in the register, or by any refusal to issue to him or to it an annual certificate, may appeal to the Minister whose decision shall be final.

APPENDIX I

CONVICTIONS IN A COURT OF LAW

In considering convictions the Board is bound to accept the determination of any court of law as conclusive evidence that the person was guilty of the offence of which he was convicted. Persons who face a charge should be mindful of this before they choose to plead guilty to the charge, or renounce appeal against conviction merely to avoid publicity or a heavier sentence. It is not open to a person who had been convicted of an offence to plead before the Board that he was in fact innocent. It is therefore unwise for a person to plead guilty in a court of law to a charge to which he believes that he has a defence.

APPENDIX II

DUTIES AND RESPONSIBILITIES OF A SUPERINTENDENT

The provisions of Section 13 of the Act requires the business of a body corporate pertaining to the keeping, retailing, dispensing and compounding of poisons, dangerous drugs or therapeutic substances, to be under the control and management of a superintendent who is a registered pharmacist. It is legitimate to conclude that this statutory requirement exists to preserve the sanctity of professionalism in a retail pharmacy and to assure a reasonable standard of pharmaceutical services in such business.

It is therefore necessary to determine, and for the parties involved to know, the scope of jurisdiction a superintendent has in the running of a retail business. After deliberation on the various aspects of the retail business, the Board is of the opinion that the superintendent has sole authority over the following matters:

- (1) The nature, quality and adequacy of amount of goods and services of all kinds reasonably necessary to enable an adequate pharmaceutical service to be provided, and choice of the supplier of such goods and services.
- (2) In relation to the pharmaceutical service
 - (a) the control of staff and the allocation of duties to individual members;
 - (b) the observance of all legal and professional requirements including the ordering, purchase, sale, supply, import, export, storage, labelling, manufacturing, mixing, compounding and dispensing of dangerous drugs, poisons and therapeutic substances;

(c) the condition of the pharmacy.

(3) The settlement of all questions concerning the nature and extent of the pharmaceutical service or which involve in any way pharmaceutical knowledge or professional conduct.

The term pharmaceutical service means the furnishing of poisons, dangerous drugs, therapeutic substances and related diagnostic, medical and surgical products and appliances, whether on prescription or otherwise, and information and advice connected therewith.