CODE OF PROFESSIONAL CONDUCT (CPC)

(In force until 23rd day of February 2021)

MALAYSIAN MEDICAL COUNCIL
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(Adopted by the
Malaysian Medical Council
on 9th December 1986)

FOREWORD

The members of the medical profession are expected to abide by a code of ethics established by the profession itself. The purpose of the code is to safeguard the public, ensure propriety in professional practice and to prevent abuse of professional privileges.

This revised Code of Professional Conduct was adopted by the Malaysian Medical Council at its 46th meeting on 9th December 1986. The new Code is more comprehensive and gives more details for the guidance of practitioners. New provisions, not previously mentioned, have been included in the new Code.

In conducting a disciplinary enquiry, the Malaysian Medical Council will be guided by the new Code of Professional Conduct. I urge all practitioners to be familiar with the new Code and to abide by it at all times.

This new Code of Professional Conduct replaces the 1975 Medical Ethics of the Malaysian Medical Council which is hereby withdrawn.

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April, 1987.

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INTRODUCTION

The practice of Medicine is an ancient profession and the community has great expectations of its practitioners and places great trust in them. Without this trust it would be impossible to practice medicine and the profession as such expects a high standard of professional and personal conduct from its members. These are embodied in various Code of Ethics which vary in detail from country to country but all place first and foremost the health and welfare of the individual and family under the care of a practitioner. The Malaysian Medical Council endorses the Declaration of Geneva which embodies these ideals (Appendix I).

Underpinning the Code of Ethics are statutes which make it an offence punishable under the law of the country to transgress certain outer limits of the expected norms of professional conduct. These minimum standards of conduct are assessed by their peers in the profession, assembled as the Malaysian Medical Council established under the Medical Act 1971. Breaches of these minimum standards are referred to as 'infamous conduct in a professional respect' or 'serious professional misconduct'.

This booklet, issued under the authority of the Malaysian Medical Council, outlines the outer limits of conduct that will make a practitioner liable, after proper inquiry, to be found guilty of serious professional misconduct. It follows that these guidelines discuss, not ideal behaviour, but the minimum standards of conduct expected of a registered medical practitioner. By publishing this booklet it is the desire of the Malaysian Medical Council that no practitioner will have committed professional misconduct on grounds of ignorance of the expected standards of professional conduct in this country.

All medical practitioners on the Medical Register should obtain a copy of these guidelines. Newly registered practitioners will receive a copy upon registration. The Council expects that all registered practitioners will study these guidelines and direct any enquiries to the Secretary of the Council. Medical practitioners may also wish to consult the Ethical Committee of the Malaysian Medical Association.

PART I

POWERS OF THE MALAYSIAN MEDICAL COUNCIL

DISCIPLINARY JURISDICTION OF THE COUNCIL

Disciplinary jurisdiction over registered medical practitioners is conferred upon the Malaysian Medical Council by Section 29 of the Medical Act, 1971 which reads as follows:–

1. The Council shall have disciplinary jurisdiction over all persons registered under this Act.

2. The Council may exercise disciplinary jurisdiction over any registered person who:

   (a) has been convicted in Malaysia or elsewhere of any offence punishable with imprisonment (whether in itself only or in addition to or in lieu of a fine);

   (b) has been guilty of infamous conduct in any professional respect;

   (c) has obtained registration by fraud or misrepresentation;

   (d) was not at the time of his registration entitled to be registered; or

   (e) has since been removed from the register of medical practitioners maintained in any place outside Malaysia.

THE MEANING OF INFAMOUS CONDUCT IN A PROFESSIONAL RESPECT

The phrase 'infamous conduct in a professional respect' was defined in 1894 by Lord Justice Lopez as follows:–

> *"If a medical man in the pursuit of his profession has done something with regard to it which will be reasonably regarded as disgraceful or dishonourable by his professional brethren of good repute and competency, then it is open to the General Medical Council, if that be shown, to say that he has been guilty of infamous conduct in a professional respect."*

In another judgment delivered in 1930 Lord Justice Scrutton stated that:–

> *"Infamous conduct in a professional respect means no more than serious misconduct judged according to the rules, written or unwritten, governing the profession."*

CONVICTIONS IN A COURT OF LAW

In considering convictions the Council is bound to accept the determination of any court of law as conclusive evidence that the practitioner was guilty of the offence of which he was convicted. Practitioners who face a criminal charge should remember this if they are advised to plead guilty, or not to appeal against a conviction merely to avoid publicity or a severe sentence. It is not open to a practitioner who has been convicted of an offence to argue before the Preliminary Investigation Committee or the Malaysian Medical Council that he was in fact innocent. It is therefore unwise for a practitioner to plead guilty in a court of law to a charge to which he believes that he has a defence.

PART II

FORMS OF INFAMOUS CONDUCT

This part mentions certain kinds of criminal offences and of infamous conduct in a professional respect (or professional misconduct) which have in the past led to disciplinary proceedings or which in the opinion of the Council could give rise to such proceedings. It does not pretend to be complete code of professional ethics, or to specify all criminal offences or forms of professional misconduct which may lead to disciplinary action. To do this would be impossible, because from time to time with changing circumstances, the Council's attention is drawn to new forms of professional misconduct.

Any abuse by a practitioner of any of the privileges and opportunities afforded to him or any grave dereliction of professional duty or serious breach of medical ethics may give rise to a charge of infamous conduct in a professional respect. In discharging their respective duties, the Preliminary Investigation Committee and the Malaysian Medical Council must proceed as judicial bodies. Only after considering the evidence in each case can this committee or Council determine the gravity of a conviction or decide whether a practitioner's behaviour amounts to infamous conduct in a professional respect.

In the following paragraphs, areas of professional conduct and personal behaviour which need to be considered have been grouped under four main headings.

1. Neglect or disregard of professional responsibilities.

2. Abuse of professional privileges and skills.

3. Conduct derogatory to the reputation of the medical profession.

4. Advertising, canvassing, and related professional offences.

1. NEGLECT OR DISREGARD OF PROFESSIONAL RESPONSIBILITIES

1.1 Responsibility for Standards of Medical Care to Patients

In pursuance of its primary duty to protect the public, the Council may institute disciplinary proceedings when a practitioner appears seriously to have disregarded or neglected his professional duties to his patients.

The public is entitled to expect that a registered medical practitioner will provide and maintain a good standard of medical care. This includes:–

(a) conscientious assessment of the history, symptoms, and signs of a patient's condition;

(b) sufficiently thorough professional attention, examination and where necessary, diagnostic investigation;

(c) competent and considerate professional management;

(d) appropriate and prompt action upon evidence suggesting the existence of a condition requiring urgent medical intervention; and

(e) readiness, where the circumstances so warrant, to consult appropriate professional colleagues.

A comparable standard of practice is to be expected from medical practitioners whose contributions to a patient's care are indirect, for example those in laboratory and radiological specialties.

Apart from a practitioner's personal responsibility to his patients, practitioners who undertake to manage, or to direct, or to perform clinical works for organisations offering private medical services should satisfy themselves that those organisations provide adequate clinical and therapeutic facilities for the services offered.

The Council is not ordinarily concerned with errors in diagnosis or treatment, or with the kind of matters which give rise to action in the civil courts for negligence, unless the practitioner's conduct in the case has involved such a disregard of his professional responsibility to his patients or such a neglect of his professional duties so as to raise a question of infamous conduct in professional respect.

A question of infamous conduct in a professional respect may also arise from a complaint or information about the conduct of a practitioner which suggests that he has endangered the welfare of the patient by persisting on independent practice of a branch of medicine in which he does not have the appropriate knowledge and skill and has not acquired the experience which is necessary.

1.2 The Practitioner and Requests for Consultation

1.2.1 In conformity with his own sense of responsibility, a medical practitioner should arrange consultation with a colleague whenever the patient or the patient's next of kin desire it, provided the best interests of the patient are so served. It is always better to suggest a second opinion in all doubtful, difficult or anxious cases.

It should be remembered that a practitioner suffers no loss of dignity or prestige in referring a patient to a colleague whose opinion could contribute to the better care of the patient.

1.2.2 The attending practitioner may nominate the practitioner to be consulted, and should advise accordingly, but he should not refuse to refer to a registered medical practitioner selected by the patient or next of kin.

1.2.3 The arrangements for consultation should be made or initiated by the attending practitioner. The attending practitioner should acquaint his patient of the approximate expenses which may be involved in specialist consultations and examinations.

1.2.4 It is the duty of the practitioner consulted to avoid any word or action which might disturb the confidence of the patient in the attending practitioner. Similarly, the attending practitioner should carefully avoid any remark or suggestion which would seem to disparage the skill or judgment of the practitioner consulted.

1.2.5 The practitioner consulted shall not attempt to secure for himself the care of the patient seen in consultation. At the end of the consultation or further management where mutually agreed upon specifically between the referring practitioner and the consultant, the patient should be returned to the referring practitioner with a report including results of investigations and advice on further care of the patient.

1.2.6 The consultant is normally obliged to consult the referring practitioner before other consultants are called in.

1.3 The Practitioner and His Practice

Partners, Assistants and Locum Tenentes.

There is an ethical obligation on a practitioner not to damage the practice of a colleague with whom he has been in professional association lately.

1.4 Improper Delegation of Medical Duties

1.4.1 Employment of Unqualified or Unregistered Persons

The employment by a registered practitioner in his professional practice, of persons not qualified or registered under the Medical Act 1971, and the permitting of such unqualified or unregistered person to attend, treat or perform operations upon patients in respect of matters requiring professional discretion or skill, is in the opinion of the Council in its nature fraudulent and dangerous to the public. Any registered practitioner who shall be proved to the satisfaction of the Council to have so employed an unqualified or unregistered person will be liable to disciplinary punishment.

1.4.2 Covering

Any registered practitioner who by his presence, countenance, advice, assistance, or co-operation, knowingly enables an unqualified or unregistered person, whether described as an assistant or otherwise, to attend, treat, or perform operation upon a patient in respect of any matter requiring professional discretion or skill, to issue or procure the issue of any certificate, notification, report or other document of a kindred character, or otherwise to engage in professional practice as if the said person were duly qualified and registered, will be liable, on proof of the facts to the satisfaction of the Council, to disciplinary punishment.

1.4.3 Association with Unqualified or Unregistered Persons

Any registered medical practitioner who, either by administering anaesthetics or otherwise, assists an unqualified or unregistered person to attend, treat, or perform an operation upon any other person in respect of matters requiring professional discretion or skill, will be liable on proof of the facts to the satisfaction of the Council to disciplinary punishments.

The foregoing part of this paragraph does not purport to restrict the proper training and instruction of bona fide medical students, or the legitimate employment of midwives, medical assistants, nurses, dispensers, and skilled mechanical or technical assistants, under the immediate personal supervision of a registered medical practitioner.

1.5 Medical Research

In the scientific application of medical research carried out on a human being, it is the duty of the practitioner to remain the protector of the life and health of that person on whom biomedical research is being carried out.

1.5.1 In any research on human beings, each potential subject must be adequately informed of the aims, methods, anticipated benefits and potential hazards of the study and the discomfort it may entail. He or she should be informed that he or she is at liberty to abstain from participation in the study and that he or she is free to withdraw his or her consent to participation at any time. The practitioner should then obtain the subject's freely-given informed consent, preferably in writing.

1.5.2 The practitioner can combine medical research with professional care, the objective being the acquisition of new medical knowledge, only to the extent that medical research is justified by its potential diagnostic or therapeutic value for the patient.

1.5.3 A medical practitioner shall use great caution in divulging discoveries or new techniques or treatment through non-professional channels.

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

1.6 The Practitioner and the Pharmaceutical/Medical Equipment Industry

The medical profession and the pharmaceutical industry have common interests in the research and development of new drugs of therapeutic value.

1.6.1 A prescribing practitioner should not only choose but also be seen to be choosing the drug or appliance which, in his independent professional judgment, and having due regard to economy, will best serve the medical interests of his patient. Practitioners should therefore avoid accepting any pecuniary or material inducement which might compromise, or be regarded by others as likely to compromise, the independent exercise of their professional judgment in prescribing matters.

1.6.2 It is improper for an individual practitioner to accept from a pharmaceutical firm monetary gifts or loans or expensive items of equipment for his personal use.

1.6.3 No objection can, however, be taken to grants of money or equipment by firms to institutions such as hospitals, health care centres and university departments, when they are donated specifically for purposes of research or patient care.

2. ABUSE OF PROFESSIONAL PRIVILEGES AND SKILLS

2.1 Abuse of Privileges Conferred by Law

In pursuance of its primary duty to protect the public, the Council may institute disciplinary proceedings when a practitioner appears seriously to have disregarded or neglected his professional duties to his patients.

2.1.1 Prescribing of Drugs

The prescription of controlled drugs is reserved to members of the medical profession and of certain other professions, and the prescribing of such drugs is subject to statutory restrictions.

The Council regards as infamous conduct in a professional respect the prescription or supply of drugs including drugs of dependence otherwise than in the course of bona fide treatment. Disciplinary proceedings may also be taken against practitioners convicted of

offences against the laws which control drugs where such offences appear to have been committed in order to gratify the practitioner's own addiction or the addiction of other persons.

2.1.2 Dangerous Drugs

The contravention by a registered practitioner of the provisions of the Dangerous Drugs Ordinance and the Regulations made thereunder may be the subject of criminal proceedings, and any conviction resulting therefrom may be dealt with as such by the Council in exercise of their powers under the Medical Act 1971. But any contravention of the Ordinance or Regulations, involving an abuse of the privileges conferred thereunder upon registered practitioners, whether such contravention has been the subject of criminal proceedings or not, will if proved to the satisfaction of the Council, render a registered practitioner to disciplinary punishment.

2.1.3 Sale of Poisons

The employment for his own profit and under cover of his own qualifications, by any registered practitioner who keeps a medical hall, open shop or other place in which scheduled poisons or preparations containing scheduled poisons are sold to the public, of assistants who are left in charge but are not legally qualified to sell scheduled poisons to the public, is in the opinion of the Council a practice professionally discreditable and fraught with danger to the public, and any registered practitioner who is proved to the satisfaction of the Council to have so offended will be liable to disciplinary punishment.

2.1.4 Certificates, Notifications, Reports, etc.

Registered practitioners are in certain cases bound by law to give, or may from time to time be called upon or requested to give particulars, notifications, reports and other documents of a kindred character, signed by them in their professional capacity, for subsequent use either in the Courts or for administrative purposes.

Practitioners are expected by the Council to exercise the most scrupulous care in issuing such documents especially in relation to any statement that a patient has been examined on a particular date.

Any registered practitioner who shall be proved to the satisfaction of the Council to have signed or given under his name and authority any such certificate, notification, report or document of a kindred character, which is untrue, misleading or improper, will be liable to disciplinary punishment.

2.1.5 Induced Non-therapeutic Abortion

The Medical Council regards induced non-therapeutic abortion a serious infamous conduct and if proved to the satisfaction of the Council, a practitioner is liable to disciplinary action. A criminal conviction in Malaysia or elsewhere for the termination of pregnancy in itself affords grounds for disciplinary action.

2.2 Abuse of Privileges Conferred by Custom

2.2.1 Abuse of Trust

Patients grant practitioners privileged access to their homes and confidences and some patients are liable to become emotionally dependent upon the practitioner. Good medical practice depends upon the maintenance of trust between practitioners and patients and their families, and the understanding by both that proper professional relationships will be strictly observed. In this situation, practitioners must exercise great care and discretion in order not to damage this crucial relationship. Any action by a practitioner which breaches this trust may raise the question of infamous conduct in a professional respect.

2.2.2 Abuse of Confidence

A practitioner may not improperly disclose information which he obtained in confidence from or about a patient.

2.2.3 Undue Influence

A practitioner may not exert improper influence upon a patient to lend him money or to obtain gifts or to alter the patient's will in his favour.

2.2.4 Personal Relationships between Practitioners and Patients

A practitioner may not enter into an emotional or sexual relationship with a patient (or with a member of a patient's family) which disrupts that patient's family life or otherwise damages, or causes distress to, the patient or his or her family.

3. CONDUCT DEROGATORY TO THE REPUTATION OF THE MEDICAL PROFESSION

The medical practitioner is expected at all times to observe proper standards of personal behaviour in keeping with dignity 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 medical knowledge contrary to the laws of humanity.

The practitioner shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offence which the victim of such procedures is suspected, accused of guilty, and whatever the victim's beliefs or motives, and in all situations, including armed conflict and civil strife.

The practitioner shall not provide any premises, instruments, substances or knowledge to facilitate the practice of torture or other forms of cruel, inhumane or degrading treatment or to diminish the ability of the victim to resist such treatment.

3.2 Personal Behaviour

The public reputation of the medical profession requires that every member should observe proper standards of personal behaviour, not only in his professional activities but at all times. This is the reason why the conviction of a practitioner for a criminal offence may lead to disciplinary proceedings even if the offence is not directly connected with the practitioner's profession.

3.2.1 Personal Misuse or Abuse of Alcohol or Other Drugs

In the opinion of the Council, conviction for drunkenness or other offences arising from misuse of alcohol (such as driving a motor car when under the influence of drink) indicate habits which are discreditable to the profession and may be a source of danger to the practitioner's patients. Convictions for drug abuse and drunkenness may lead to an inquiry by the Malaysian Medical Council.

A practitioner who treats patients or performs other professional duties while he is under the influence of alcohol or drugs, or who is unable to perform his professional duties because he is under the influence of alcohol or drugs is liable to disciplinary proceedings.

3.2.2 Dishonesty: Improper Financial Transactions

A practitioner is liable to disciplinary proceedings if he is convicted of criminal deception (obtaining money or goods by false pretences), forgery, fraud, theft, or any other offence involving dishonesty.

The Council takes a particularly serious view of dishonest acts committed in the course of a practitioner's professional practice or against his patients or colleagues. Such acts, if reported to the Council, may result in disciplinary proceedings. Among the circumstances which may have this result are the improper demands or acceptance of fees from patients contrary to the statutory provisions which regulate the

conduct of the health services of the Government of Malaysia.

The Council also takes a serious view of the prescribing or dispensing of drugs or appliance for improper motives. A practitioner's motivation may be regarded as improper if he has prescribed a drug or appliance purely for his financial benefit or if he has prescribed a product manufactured or marketed by an organisation from which he has accepted an improper inducement.

"The Council also regards fee-splitting or any form of kick backs arrangement as an inducement to refer or to receive a patient to or from another practitioner, institution, organisation or individual as unethical. The premise for referral must be quality of care. Violation of this will be considered by the Council as infamous conduct in a professional respect."

However, fee sharing where two or more practitioners are in partnership or where one practitioner is assistant to or acting for the other is permissible.

3.2.3 Indecency and Violence

Any conviction for assault or indecency would render a practitioner liable to disciplinary proceedings, and would be regarded with particular gravity if the offence was committed in the course of a practitioner's professional duties or against his patients or colleagues.

3.3 Incompetence to Practice

Where a practitioner becomes aware of a colleague's incompetence to practice, whether by reason of taking drugs or by physical or mental incapacity, then, it is the ethical responsibility of the practitioner to draw this to the attention of a senior colleague who is in a position to act appropriately.

3.4 The Practitioner and Commercial Undertakings

The practitioner is the trustee for the patient and accordingly must avoid any situation in which there is a conflict of interest with the patient.

A general ethical principle is that a practitioner should not associate himself with commerce in such a way as to let it influence, or appear to influence, his attitude towards the treatment of his patients.

The association of a practitioner with any commercial enterprise engaged in the manufacture or sale of any substance which is claimed to be of value in the prevention or treatment of disease but is unproven or of an undisclosed nature or composition will be considered as infamous conduct in a professional respect.

A practitioner has a duty to declare an interest before participating in discussion which could lead to the purchase by a public authority of goods or services which he, or a member of his immediate family, has a direct or indirect pecuniary interest. Non-disclosure of such information may, under certain circumstances, amount to infamous conduct in a professional respect.

Where the practitioner has a financial interest in any facility to which he refers patients for diagnostic tests, for procedures or for inpatient care, it is ethically necessary for him to disclose his interest in the institution of the patient.

4. ADVERTISING, CANVASSING, AND RELATED PROFESSIONAL OFFENCES.

The medical profession in this country has long accepted the convention that doctors should refrain from self-advertisement. In the Council's opinion self-advertisement is not only incompatible with the principles which should govern relations between members of a profession but could be a source of danger to the public. A practitioner successful at achieving publicity may not be the most appropriate doctor for a patient to consult. In extreme cases advertising may raise illusory hopes of a cure.

4.1 Advertising and Canvassing

4.1.1 Advertising, whether directly or indirectly, for the purpose of obtaining patients, or promoting his own professional advantage, or, for any such purpose, of procuring or sanctioning, or acquiescing in, the publication of notices commending for directing attention to the practitioner's professional skill, knowledge, services, or qualification, or depreciating those of others, or of being associated with, or employed by, those who procure or sanction such advertising or publication, and canvassing, or employing any agent or canvasser, for the purpose of obtaining patients; or of sanctioning, or of being associated with or employed by those who sanction, such employment e.g. private hospitals, clinics and other medical institutions are in the opinion of the Council contrary to the public interest and discreditable to the profession of Medicine, and any registered medical practitioner who resorts to any such practice renders himself liable, on proof of the facts to the satisfaction of the Council to disciplinary punishment.

4.1.2 The Council recognizes that the profession has a duty to disseminate information about advances in medical sciences and therapeutics provided it is done in an ethical manner.

4.2 Announcement in the Lay Press Regarding Practice

An announcement by the Malaysian Medical Association on the commencement or change of address of practice is permissible as a service to the community.

4.3 Professional Calling Cards

A practitioner may carry calling cards but he should not distribute calling cards with the purpose of soliciting patients. The information permitted on a professional calling card is contained in Appendix II.

4.4 Signboards

A signboard for the purpose of assisting patients to locate a practitioner is permissible provided it conforms to the limits laid down by the Council contained in Appendix III.

4.5 Nameplates/Doorplates

These should conform to the limits laid down by the Council as contained in Appendix IV.

4.6 24-Hour Clinics

These should conform to the requirements laid down by the Council as contained in Appendix IV.

PART III

DISCIPLINARY PROCEDURE

1. PRELIMINARY INVESTIGATION COMMITTEE

In accordance with Regulation 26, Medical Regulations 1974:–

(1) The President of the Council may from time to time appoint a committee from among practitioners who are willing to act, which committee shall be known as a Preliminary Investigation Committee (hereinafter referred to as "Committee") whose function shall be to make a preliminary investigation into complaints or information touching any disciplinary matter.

(2) A Committee shall consist of such number of members not being less than three or more than six as the President may from time to time think fit and shall be appointed in connection with one or more than one complaint or information touching any disciplinary matter.

(3) The President may at any time revoke the appointment of any member of any Committee or may remove any member of a Committee or fill any vacancy in any Committee or subject to sub-regulation (2), increase the number of members of a Committee:–

Provided that no act done or proceeding taken under these Regulations shall be questioned on the ground of any vacancy in the membership of or any defect in constitution of such Committee.

(4) The quorum of a Committee shall be two.

(5) The President shall nominate a practitioner from among members of a Committee to be the Chairman of such Committee.

(6) The Chairman shall preside at all meetings of such Committee:–

Provided that in the absence of the Chairman, the most senior practitioner present at that meeting of such committee shall preside.

(7) The decision of a Committee shall be unanimous or by a majority.

1.1 Complaint against Practitioners

In accordance with Regulation 27, Medical Regulations 1974, where a complaint or information is made against any practitioner alleging that such person:–

(a) has been convicted in Malaysia or elsewhere of any offence punishable with imprisonment (whether in itself only or in addition to or in lieu of a fine);

(b) has been guilty of infamous conduct in any professional respect;

(c) has obtained registration by fraud or misrepresentation;

(d) has since been removed from the register of medical practitioners maintained in any place outside Malaysia;

such complaint or information shall be forwarded by the President to the Chairman of the Committee.

1.2 Summary Dismissal of Complaint

In accordance with Regulation 28, Medical Regulations 1974:–

(1) The Committee to which such complaint or information has been forwarded, may summarily dismiss any complaint or information is it is satisfied:–

(a) that the name and address of the complainant is unknown or untraceable;

(b) that even if the facts were true, the facts do not constitute a disciplinary matter; or

(c) for reasons which must be recorded, that there is reason to doubt the truth of the complaint or information.

(2) The Committee may before making any summary decision require the complainant to make a statutory declaration of the facts alleged by him.

1.3 Procedure of Inquiry

In accordance with Regulation 29, Medical Regulations 1974:–

(1) Where the Committee has reason to believe that the complaint or information is probably true, it shall –

(a) by order in writing require the attendance before the Committee, on a date and time and at a place to be specified therein, of the complainant and any person who from the complaint or information given or otherwise appears to be acquainted with the circumstances;

(b) inform the practitioner against whom the allegations are made, the substance of the complaint or information, the date, time and place at which the inquiry into the complaint or information shall be made and of his rights to be present with or without counsel, to cross-examine such persons who may be called at the inquiry.

(2) The Committee shall convene on the date, time and place specified in the order and shall proceed to inquire into the allegation made against the practitioner.

(3) The Committee shall examine the complainant and the persons in support of the allegation, who may in turn be cross-examined for the practitioner and if necessary re-examined and shall reduce to writing the statement made by the complainant and such persons examined.

(4) After taking the statements of the complainant and the persons in support of the allegation, the Committee shall –

(a) if it finds that there are no sufficient grounds to support the allegation, recommend to the Council that no action be taken; or

(b) if it finds that the statements support the allegation, frame the charge and explain to the practitioner that he is at liberty to state his defence on the charge framed against him.

(5) If the practitioner after being informed of his right under sub-regulation (4) elects not to make a statement, the Committee shall recommend that there shall be an inquiry by the Council.

(6) If the practitioner elects to make his defence before the Committee, the Committee shall record his statement as far as possible, word by word.

(7) After taking the practitioner's statement, the Committee shall –

(a) if it finds that there are no sufficient grounds to support the allegation, recommend to the Council that no action be taken; or

(b) if it finds that there are grounds to support the charge, recommend to the Council that there shall be an inquiry by the Council.

1.4 Records of Inquiry to be Transmitted to the Council

In accordance with Regulation 30, Medical Regulations 1974, the records of any preliminary inquiry by the Committee shall be prepared and sent to the Council within sixty days of completion of such inquiry.

2. ENQUIRY BY THE COUNCIL

In accordance with Regulation 31, Medical Regulations 1974:–

(1) The Council shall, where the Committee recommends that there shall be an inquiry, and may, for reasons to be recorded, in cases where the Committee, after hearing the statements of the complainants and other persons in support of the allegation has recommended that no action be taken, hold a disciplinary inquiry against the practitioner.

(2) The Council shall cause to be served on the practitioner a notice specifying the date, time and place of inquiry and shall provide such practitioner with a copy of the charge or charges framed by the Council after a consideration of the records submitted by the Committee.

(3) The Council shall not, on the date of the inquiry require any further statement to be recorded or made by the complainant or such persons who have made statements before the Committee:–

Provided that it may call for and shall record any statement from any such person if it is of the opinion that it would be fair and just to do so.

(4) The Council shall, if after considering the statements made by the complainant and other persons in support of the allegation as found in the records of the preliminary inquiry by the Committee, it is satisfied that there are grounds to support the charge call upon the practitioner to make any further statement as he deems necessary and to call such other persons as he may require to support his defence and shall record such further statement or fresh statement.

(5) If at close of the inquiry, the Council finds that no case has been made against the practitioner it shall direct that the charge be dismissed and shall inform the practitioner accordingly.

(6) If at the close of the inquiry the Council finds the practitioner guilty of any disciplinary matter specified in Section 29 (2) of the Act, it shall inform the practitioner of its finding and the grounds for its decision and shall request such practitioner to make any plea in mitigation as he deems fit.

(7) The Council shall, after hearing any plea in mitigation exercise any of its powers specified in Section 30 of the Act.

3. DISCIPLINARY POWERS OF COUNCIL

In accordance with Section 30, Medical Act 1971, the Council may, in the exercise of its disciplinary jurisdiction, impose any of the following punishments:

(i) order the name of such registered person to be struck off from the Register; or

(ii) order the name of such registered person to be suspended from the Register for such period as it may think fit; or

(iii) order the registered person to be reprimanded; or

(iv) make any such order as aforesaid but suspend the application thereof, subject to such conditions as the Council may think fit, for a period, or periods in aggregate, not exceeding two years;

and may, in any case, make such order as the Council thinks fit with regard to the payment of the costs of the Registrar and of any complainant or of the registered person, and any costs awarded may be recovered as a civil debt.

4. APPEAL AGAINST ORDERS OF THE COUNCIL

In accordance with Section 31, Medical Act 1971:–

(1) Any person who is aggrieved by any order made in respect of him by the Council in the exercise of its disciplinary jurisdiction may appeal to the High Court, and the High Court may thereupon affirm, reverse, or vary the order appealed against or may give such direction in the matter as it thinks proper; the cost of the appeal shall be in the discretion of the High Court.

(2) The decision of the High Court upon such appeal shall be final.

(3) The practice in relation to any such appeal shall be subject to the rules of court applicable in the High Court:

Provided that the High Court shall not have power to hear any appeal against an order made under Section 30 unless notice of such appeal was given within one month of the service of the order in the prescribed manner.

5. RESTORATION OF NAME TO REGISTER

In accordance with Section 31A, Medical Act 1971:–

(1) No person whose name has been struck off from the Register under the provisions of paragraph (i) of Section 30 shall thereafter be entitled to be registered as a medical practitioner under the provisions of this Act, but the Council may, if it thinks fit in any case to do so, on the application of the person concerned, order that the name of such person be restored to the Register; and where the name of a person has been suspended from the Register under paragraph (ii) of that section such person shall be entitled at the expiration of period of suspension, but not earlier, to apply for the certificate of registration and the annual practicing certificate (if the period for which it is issued is still unexpired) to be returned to him.

(2) An application made under subsection (1) shall be made in such manner or form and accompanied by such documents, photographs, particulars and fees as may be prescribed.

6. APPOINTMENT OF LEGAL ADVISER

In accordance with Regulation 32, Medical Regulations 1974:–

(1) The Council or any Committee may appoint a legal adviser to assist the Council or Committee during any inquiry touching on disciplinary matter.

(2) The Council or Committee may appoint any person who is and has been an 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.

7. MEMBERS WHO ARE DISQUALIFIED FROM ANY MEETING OF THE COUNCIL INQUIRING INTO ANY DISCIPLINARY MATTER

In accordance with Regulation 33, Medical Regulations 1974, no member of the Council or the Committee shall attend or participate in any meeting of the Council or the Committee inquiring into any disciplinary matter if –

(a) he was the complainant;

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

(c) he has appeared before the Committee for the purpose of making any statement;

(d) he was a member of the Committee making preliminary investigation into the complaint or information; or

(e) the complainant, the persons appearing before the Committee for the purpose of making any statement or the registered person is his partner or relative.

APPENDIX I

DECLARATION OF GENEVA

Adopted by the 2nd General Assembly of the World Medical Association, Geneva, Switzerland, September 1948, amended by the 22nd World Medical Assembly, Sydney, Australia, August 1968, and the 35th World Medical Assembly, Venice, Italy October 1983.

AT THE TIME OF BEING ADMITTED AS A MEMBER OF THE MEDICAL PROFESSION:

I SOLEMNLY PLEDGE myself to consecrate my life to the service of humanity;

I WILL GIVE to my teachers the respect and gratitude which is their due;

I WILL PRACTICE my profession with conscience and dignity;

THE HEALTH OF MY PATIENT will be my first consideration;

I WILL RESPECT the secrets which are confided in me, even after the patient has died;

I WILL MAINTAIN by all the means in my power, the honor and the noble traditions of the medical profession;

MY COLLEAGUES will be my brothers;

I WILL NOT PERMIT consideration of religion, nationality, race, party politics or social standing to intervene between my duty and my patient;

I WILL MAINTAIN the utmost respect for human life from its beginning even under threat and I will not use my medical knowledge contrary to the laws of humanity;

I MAKE THESE PROMISES solemnly, freely and upon my honour.

APPENDIX II

PROFESSIONAL CALLING CARDS

The calling card should only contain the name of the practitioner, registrable professional qualifications, State and National awards, home address and telephone number(s), practice address(es) and telephone number(s).

APPENDIX III

SIGNBOARDS

The Council agrees to the following limits to signboards for registered practitioners:–

1. There shall not be more than two (2) signboards to indicate the identity of the medical clinic or practice.

2. It/they shall not be floodlit or illuminated.

3. The total combined area of the signboard or signboards (if 2 signboards are used) should NOT exceed 2.787 sq. metres (30 sq. ft.) This includes letterings fixed or painted on walls or any other backing where the perimeter enclosing the letterings should not exceed 2.787 sq. metres (30 sq. ft.) in total.

The Council felt that clinics may actually require more than one signboard and agreed that it be restricted to a maximum of two provided the total combined areas of the two signboards do not exceed 2.787 sq. metres (30 sq. ft.).

Adopted by Council at its 35th Meeting on 29th July 1985.

APPENDIX IV

NAMEPLATES/DOORPLATES

1. Nameplates should be plain and should not exceed 930.25 sq. cm. (1 sq. ft.) in dimension.

2. The name plates may bear the following:

   2.1 the practitioner's name

   2.2 his registrable qualifications in small letters

   2.3 titles may be included.

3. A separate doorplate not exceeding 930.25 sq. cm. (1 sq. ft.) is permitted to indicate his consultation hours.

4. Where it is considered necessary for an assistant to have his own nameplate the normal rules relating to plates continue to apply.

5. Visiting practitioners may have their nameplates, provided the day(s) and hour(s) of practice are stated.

6. Nameplates of practitioners who do not practise in the clinic are not permitted to be exhibited.

Adopted by Council at its 35th Meeting on 29th July 1985.

APPENDIX V

24-HOUR CLINIC

1. No additional signboard is permitted.

2. Notification of the availability of 24-hour service should be on the doorplate pertaining to consultation hours or on the existing clinic signboard.

3. Qualified and registered practitioners should be available at all times and his availability should be within a reasonable period of time not exceeding thirty (30) minutes.

4. A practitioner may not operate more than one 24 hour clinic at the same time.

5. In the event that an emergency arises requiring the practitioner to be called away, the clinic should do one of the following;

    5.1 not to accept any new patients until the practitioner is back in the clinic; or

    5.2 inform intending patients that the practitioner is not available.

Adopted by Council at its 35th Meeting on 29th July 1985.

REFERENCES

1. Laws of Malaysia, Act 50 – Medical Act 1971.

2. Malaysian Medical Council Medical Ethics, 1975.

3. Malaysian Medical Association Ethical Code, 1985.

4. General Medical Council, Professional Conduct and Discipline: Fitness to Practice, London: GMC 1985.

5. Australian Medical Association, Code of Ethics, 1980.

6. Report of Malaysian Medical Council Subcommittee on "Signboards" adopted by Council at its 35th meeting on 29th July 1985.

7. The World Medical Association, Handbook of Declarations, 1985.