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The Gazette of the Democratic Socialist Republic of Sri Lanka

අති විශේෂ EXTRAORDINARY

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PART I: SECTION (I) — GENERAL

Government Notifications

L.D.—B. 123/48

THE MEDICAL ORDINANCE

REGULATIONS made by the Minister of Health and Women's Affairs under Section 72 read with Sections 25, 33, 41(3), 45, 52, 57 60c and 64 of the Medical Ordinance (Chapter 105).

RENUKA HERATH,
Minister of Health and Women's Affairs.

Colombo, 3rd November, 1992.

REGULATIONS

Complaint Against Practitioners

PART I

1. These regulations may be cited as the Medical Disciplinary (Procedure) Regulations 1990.

2. (1) Where a complaint or report against any practitioner which alleges any fact or matter constituting a ground on which the Sri Lanka Medical Council (hereinafter referred to as "the Council") is empowered to take action under Section 25(1) (a) of the Ordinance is sent to the Council, the President of the Council (hereinafter referred to as "the PRESIDENT") shall subject to the succeeding provisions of these regulations, direct the Registrar of the Council (hereinafter referred to as "the Registrar") to refer such complaint or report to the Preliminary Proceedings Committee (hereinafter referred to as "Committee") for consideration and report whether there is a case which should be referred to the Professional Conduct Committee for inquiry.

(2) Where any complaint or report relates to the conduct or negligence or incapacity relating to professional duties of a practitioner and it does not appear to the President that such conduct constitutes infamous conduct in any professional respect, or, that such negligence or incapacity constitutes negligence or incapacity relating to professional duties by reason of which the practitioner cannot be allowed to continue to practise as a practitioner or where any complaint or report relates to the conviction of a practitioner by a court of law and it does not appear to the President that the offence of which the practitioner is alleged to have been convicted shows him to be unfit to practice as a practitioner, then, the President may instead of referring such complaint or report to the Committee, direct the Registrar to place such complaint or report before the Council at its next meeting for consideration.

(3) No complaint or report against a practitioner of the nature referred to in paragraph (1) shall be entertained unless such complaint or report :-
(a) is preferred by means of a written statement addressed to the Registrar setting out the facts or the matters alleged against the practitioner, and
(b) in a case where such complaint or report alleges infamous conduct in any professional respect or negligence or incapacity relating to professional duties, is supported by an affidavit or affidavits as to the facts or matters alleged in such complaint or report.

Provided, however that where such complaint or report is made by a person acting in a public capacity, the provisions of Sub-paragraph, (b) shall not apply.

(4) Every affidavit furnished with any complaint or report referred to in the proceeding of this regulation shall *inter alia* state the name, designation and address of the deponent/affirmant, and in every case where any fact or matter stated in such affidavit is not within the personal knowledge of the deponent/affirmant shall state the source of the deponents/affirmants information and the grounds for his belief in the truth of the facts or matters stated therein. The practitioner shall forthwith be informed of the complaint or report.

(5) In this regulation the expression "person acting in a public capacity" means the Vice Chancellor or the Registrar of any University established under the Universities Act, No. 16 of 1978 or the head of a Government Department or the Mayor of any Municipality or the Chairman of any Urban Council or Pradeshiya Sabha or the Registrar.



3. (1) Where any complaint or report is placed before the Council by the Registrar in pursuance of regulation 2(2), the Council shall consider the same and determine whether or not such complaint or report, or any part thereof should be referred to the Committee.

(2) If the Council decides that such complaint or report or any part thereof should not be referred to the Committee, the Registrar shall inform the complainant about such decision. If the Council decided to refer such complaint, or report or any part thereof to the Committee, the Registrar shall refer the same to the Committee for consideration and report.

4. Where a complaint or report has been referred to the Committee in pursuance of the preceding provisions of these regulations, the President shall direct the Registrar to notify the practitioner of the receipt of the complaint or report stating the fact or matter alleged therein, to send to the practitioner a copy of each affidavit furnished under regulation 2(3), and to request the practitioner to submit to the Committee any explanation which the practitioner may have to offer in respect of such facts or matters alleged in the complaint or report against him.

5. The Committee shall have the following powers:-

(a) to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the Committee may think it necessary or desirable to procure or examine;

(b) to require evidence (whether written or oral) of any witness to be given on oath or affirmation, such oath or affirmation to be that which could be required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorized in that behalf by the Committee on oath or affirmation to every such witness; and

(c) to summon any person residing in Sri Lanka to attend any meeting of the Committee, to give evidence and to produce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession.

6. The provisions set out in the First Schedule hereto shall apply to and in relation to the constitution and the procedure to be followed at the meetings of the Committee.

7. (1) The Registrar shall be the Secretary of the Committee and every summons, notice, or other document issued by the Committee shall be signed by such Registrar on behalf of the Committee.

(2) (a) Any summons may be served by delivering it to the person named therein or if that is not practicable, by leaving it at last known place of abode of that person.

(b) Every person on whom summons is served shall attend before the Committee at the time and place mentioned therein and shall give evidence or produce such documents or other things as are required of him and are in his possession or power according to the tenor of the summons.

8. If any person upon whom summons is served under these regulations:-

(i) Fails without cause, which in the opinion of the Committee is reasonable, to appear before the Committee at the time and place mentioned in the summons; or

(ii) refuses to be sworn or, having been duly sworn, refuses or fails without cause, which in the opinion of the Committee is reasonable to answer any questions put to him touching the matters directed to be inquired into by the Committee; or

(iii) refuses or fails without cause which in the opinion of the Committee is reasonable to produce and show to the Committee any document or other thing which is in his possession or power and which is in the opinion of the Committee necessary for arriving at the truth of the matters to be inquired into;

such person shall be guilty of an offence under these regulations.

9. The Committee shall hold the inquiry or hear the evidence of any person, in camera.

10. Upon the conclusion of the inquiry the Committee shall prepare and transmit to the Professional Conduct Committee a report embodying its findings on each of the facts or matters alleged in the complaint or report together with a copy of such complaint or report.

11. The Provisions set out in the second schedule to these regulations shall apply to and in relation, to the constitution and the procedure to be followed at meetings of, the Professional Conduct Committee.

12. (1) As soon as may be after a report shall have been transmitted to the Professional Conduct Committee under regulation 10 by the Committee upon any complaint or report or such part thereof as has been referred to the Committee for consideration under the preceding provisions of these regulations, the Professional Conduct Committee shall consider the report of the Committee and shall determine whether or not an inquiry should be held into the facts or matters alleged in the complaint or report.

(2) Where the Professional Conduct Committee determines that no inquiry should be held, the Professional Conduct Committee shall direct the Registrar to inform the complainant and the practitioner accordingly.

(3) Where the Professional Conduct Committee determines that an inquiry should be held into all or any of the matters contained in the report of the Committee, the Registrar shall instruct the Attorney-at-Law representing the Council to serve on the practitioner a notice of inquiry (hereinafter referred to as a "notice") specifying the charge or charges made against the practitioner which shall be substantially in the form set out in the Third Schedule to these regulations.

(4) Except with the consent of the practitioner no inquiry shall be fixed for any date earlier than twenty eight days after the date of service of the notice on the practitioner.

(5) Every such notice shall be sent to the practitioner by post by registered letter addressed to him at his address as shown in the register, or at his last known address, if that address differs from his address in the register and it appears to the Attorney-at-Law that such service is more effective.

(6) There shall be sent with the notice, a copy of these regulations.

(7) In every case where there is a complainant, a copy of the notice shall also be served on the complainant.

(8) The Attorney-at-Law shall, on application made by a party to any inquiry and on payment of such fees as may be fixed in that behalf by the Council, send to such party copies of any affidavit, explanation or other statement or communication sent to the Council by the other party.

13. (1) Where before or at any stage of an inquiry it appears to the Professional Conduct Committee that a notice of inquiry is defective, the Professional Conduct Committee may, unless having regard to the merits or the case, the required amendments cannot be made without injustice, give such directions to the Attorney-at-Law for the amendment of the notice as the Professional Conduct Committee may consider necessary in the circumstances of the case.

(2) Where a notice is amended in pursuance of the preceding provisions of this regulation, the Professional Conduct Committee may, if it thinks fit postpone or adjourn the inquiry or may give such other directions in that behalf as may appear to the Professional Conduct Committee to be necessary in the circumstances of the case.

(3) The Professional Conduct Committee may, on application made by any party to an inquiry or on its own motion postpone or adjourn an inquiry to such later date as may be determined by the Professional Conduct Committee.

Proceedings at Hearings of the Professional Conduct Committee.

PART II

A - Preliminary Objections

14. Where the practitioner fails to appear before the Professional Conduct Committee on the date and time fixed in the notice the Professional Conduct Committee shall call upon the Attorney-at-Law to satisfy the Professional Conduct Committee that a notice of inquiry as required by the provisions of these regulations has been duly served on the practitioner, and if satisfied that the notice has been so served, may proceed with the inquiry.

15. (1) Where the practitioner appears or, in a case where he fails to appear, before the Professional Conduct Committee and the Professional Conduct Committee had decided to proceed with the inquiry, the charge or charges against the practitioner shall be first read to the Professional Conduct Committee by the Attorney-at-Law

(2) After the reading of the charge or charges the practitioner may if he is present and if he so desires, object to any charge on a point of law and upon such objection, the Attorney-at-Law may reply thereto.

(3) If any such objection is upheld, no further proceedings shall be taken by the Professional Conduct Committee in relation to the charge to which the objection relates.

B - Cases relating to conduct of practitioner

16. At inquiries in respect of cases relating to the conduct of a practitioner, the following procedure shall, without prejudice to the provisions of regulations 14 and 15 be observed :-

- (1) The Attorney-at-Law shall present the facts on which the report of the Committee is based.
- (2) The Attorney-at-Law shall adduce evidence of the facts alleged in the charge or charges or such of those facts constituting the charge or charges as he is prepared to prove.
- (3) If, as respects any charge, no evidence is so adduced, the Professional Conduct Committee shall record and the Chairman shall announce, a finding that the practitioner is not guilty of infamous conduct in a professional respect, or of negligence or incapacity relating to professional duties, as the case may be, in respect of the matters to which the charge relates.
- (4) At the close of the case against him, the practitioner may, if he so desires make either or both of the following submissions as respects any charge as to which evidence has been adduced, that is to say:-

- (a) that no sufficient evidence has been adduced upon which, the Professional Conduct Committee could find that the facts alleged in the charge have been proved; or
- (b) that the facts alleged in the charge are not such as to constitute infamous conduct in a professional respect, or such negligence or incapacity relating to professional duties which renders him unfit to practise as a practitioner

and where any such submission as aforesaid is made, the Attorney-at-Law may reply thereto.

- (5) (a) Where a submission is made under the last preceding paragraph, the Professional Conduct Committee shall consider and determine whether such submission should be upheld.
- (b) Where the Professional Conduct Committee decides to uphold such submission as respects any charge the Professional Conduct Committee shall record a finding that the practitioner is not guilty of infamous conduct in a professional respect, or negligence or incapacity relating to professional duties, as the case may be, in respect of the matters to which that charge relates.
- (c) Where the Professional Conduct Committee has reached a determination on such a submission, the Chairman shall announce the determination of the Professional Conduct Committee in such manner as the Professional Conduct Committee may think fit.
- (6) As respects any charge in respect of which evidence has been adduced, the practitioner may adduce evidence to disprove such charge, and whether he adduces evidence or not, may address the Professional Conduct Committee. Only one address shall be permitted under this paragraph and where the practitioner adduces evidence, such address shall be made either before such evidence is begun or after it is concluded.
- (7) At the close of the case for the practitioner, the Attorney-at-Law may, with the leave of the Professional Conduct Committee adduce evidence to rebut any evidence adduced by the practitioner; and if he does so, the practitioner may make a further address, such address being limited to the rebutting evidence.

- (8) The Attorney-at-Law, may address the Professional Conduct Committee by way of reply to the practitioner's case -
- if oral evidence (not being evidence as to character other than that of the practitioner himself) has been led on the practitioner's behalf; or
 - with the leave of the Professional Conduct Committee, is a case where no such evidence has been given.
- (9) Without prejudice to the provisions of the preceding paragraph, where the practitioner has made a submission to the Professional Conduct Committee on a point of law, the Attorney-at-Law shall have a right of reply limited to that submission.

17. Where in a case relating to conduct the practitioner fails to appear, and the Professional Conduct Committee has decided to proceed with the inquiry, the provisions of paragraphs (4) to (9) of regulations 16 shall not apply to and in relation to such inquiry.

18. (1) On the conclusion of the proceedings under either regulation 16 or regulation 17, the Professional Conduct Committee shall consider and determine whether the charge, or if there be more than one charge, any one of the said charges other than a charge which has been dismissed, have been proved to the satisfaction of the Professional Conduct Committee.

(2) The reference in paragraph (1) to a charge which has been dismissed shall be construed as a reference to a charge as to which the Professional Conduct Committee has already recorded a finding that the practitioner is not guilty of infamous conduct in a professional respect or negligence or incapacity relating to professional duties, as the case may be which renders him unfit to practise as a practitioner.

(3) Where the Professional Conduct Committee determines that none of the charges have been proved to the satisfaction of the Professional Conduct Committee, The Professional Conduct Committee shall record a finding of not guilty and the Chairman shall announce the finding of the Professional Conduct Committee in such manner as the Professional Conduct Committee may think fit.

(4) Where the Professional Conduct Committee determines that any charge has been proved, it shall give its reasons therefore. The Chairman shall thereupon ask the practitioner whether he wishes to address the Professional Conduct Committee and the practitioner may then, if he so desires, address the Professional Conduct Committee by way of mitigation and show cause why the Professional Conduct Committee should not make an order to take action under Section 25(1) (a) of the Ordinance. The practitioner may also adduce evidence as to his good character.

19. After the practitioner has been afforded an opportunity of addressing the Professional Conduct Committee and adducing evidence as aforesaid, and if he avails himself of the opportunity, after the conclusion of his address or evidence the Professional Conduct Committee shall consider and determine whether to postpone its decision as to whether action under Section 25 (1) of the Ordinance should be taken, and if the Professional Conduct Committee so determines, the decision of the Professional Conduct Committee shall stand postponed until such future meeting of the Professional Conduct Committee as the Professional Conduct Committee may determine and the Chairman shall announce the determination of the Professional Conduct Committee in such manner as the Professional Conduct Committee may think fit.

20. If the Professional Conduct Committee determines that the decision of the Professional Conduct Committee should not be postponed, the Chairman shall announce the decision of the Professional Conduct Committee forthwith in such manner as the Professional Conduct Committee may think fit.

21. The Professional Conduct Committee shall thereafter inform the Council, of its decision. On receipt of such decision the Council shall direct the Registrar to take such steps as may be necessary to give effect to that decision.

C - Cases relating to deprivation of diploma, degree etc. of Practitioner

22. Where the complaint or report relates to :-

- in the case of a practitioner, being a medical practitioner the deprivation of any diploma, degree or certificate on the faith of which he was registered as a Medical Practitioner;
- in the case of a practitioner, being a dentist the deprivation of any diploma, degree or certificate on the faith of which he was registered as dentist;
- in the case of a practitioner, being an apothecary the deprivation of the certificate on the faith of which he was registered under Section 41 of the Ordinance as an apothecary entitled to practise Medicine and Surgery;
- in the case of a practitioner, being a midwife the deprivation of any diploma, degree or certificate on the faith of which she was registered as a midwife;
- in the case of a practitioner, being a pharmacist the deprivation of any diploma, degree or certificate on the faith of which he was registered as pharmacist;
- in the case of a practitioner, being a para-medical assistant the deprivation of any diploma degree or certificate on the faith of which he was registered as a para-medical assistant;
- in the case of a practitioner, being a nurse the deprivation of any diploma, degree or certificate on the faith of which that person was registered as a nurse.

The procedure to be observed at the hearing of such complaint or report shall, without prejudice to the provisions of regulations 14 and 15, be as follows :-

- The Attorney-at-Law shall adduce evidence in respect of the charge preferred against the practitioner.
- If no evidence is adduced by the Attorney-at-Law then the Chairman shall announce that the charge has not been proved.
- If any evidence is adduced and the practitioner is present at the inquiry, the practitioner may adduce evidence to disprove the charge and he may address the Professional Conduct Committee either before his evidence is begun or after it is concluded.

- (4) After the practitioner has been afforded an opportunity of addressing the Professional Conduct Committee and adducing evidence as aforesaid, and if he avails himself of the opportunity, after the completion of his evidence and address, if any, the Professional Conduct Committee shall consider and determine whether the charge has been proved and, if so, whether the decision of the Professional Conduct Committee as to whether action to be taken under Section 25(1)(a) of the Ordinance should be postponed for a future meeting of the Professional Conduct Committee.
- (5) If the Professional Conduct Committee determines that the charge has been proved and also further determines that the decision of the Professional Conduct Committee should be postponed, then the decision of the Professional Conduct Committee shall stand postponed for such future meeting of the Professional Conduct Committee as the Professional Conduct Committee may determine.
- (6) If the Professional Conduct Committee determines that its decision should not be postponed, then the Chairman shall announce the decision of the Professional Conduct Committee with its reasons therefore in such manner as the Professional Conduct Committee may think fit.
- (7) If the Professional Conduct Committee determines the charge has not been proved, the Chairman shall announce the decision of the Professional Conduct Committee accordingly.
- (8) The Professional Conduct Committee shall thereafter inform the Council, of its decision. On receipt of such decision the Council shall direct the Registrar to take steps as may be necessary to give effect to that decision.

Cases relation to Conviction of a Practitioner.

23. Where the complaint or report relates to the conviction of a practitioner by a court of law, the following procedure shall without prejudice to the provisions of regulations 14 and 15, be followed :-

- (1) The Attorney-at-Law shall adduce evidence of the conviction and also adduce evidence as to the circumstances leading up to the conviction. If no evidence is so adduced, by the Attorney-at-Law the Chairman shall announce that the conviction has not been proved.
- (2) (a) If evidence is so adduced the Chairman shall ask the practitioner whether he wishes to address the Professional Conduct Committee and the practitioner may then, if he so desires, address the Professional Conduct Committee as to whether the offence of which he is alleged to have been convicted shows him to be unfit to practise, and by way of mitigation, may show cause why the Professional Conduct Committee should not direct the Registrar to take action under Section 25(1)(a) of the Ordinance, or should not in any event proceed to make a decision forthwith or he may make any other submissions which he wishes to make in relation to the charge or charges against him. He may also adduce evidence as to his good character.
(b) Only one address shall be permitted under paragraph (a) and where the practitioner adduces evidence, that address shall be made either before such evidence is begun or after it is concluded.
- (3) After the practitioner has been afforded an opportunity of addressing the Professional Conduct Committee and adducing evidence as aforesaid, and if he avails himself of the opportunity after the completion of his address or evidence, the Professional Conduct Committee shall consider whether the conviction has been proved and if so whether the Professional Conduct Committee should postpone its decision as to whether action should be taken under Section 25(1)(a) of the Ordinance.
- (4) If the Professional Conduct Committee determines that the decision of the Professional Conduct Committee should be postponed to a future meeting of the Professional Conduct Committee the decision of the Professional Conduct Committee shall stand postponed to such future meeting of the Professional Conduct Committee as the Professional Conduct Committee may determine.
- (5) If the Professional Conduct Committee determines that the decision of the Professional Conduct Committee should not be postponed, the Chairman shall announce the decision of the Professional Conduct Committee forthwith in such manner as the Professional Conduct Committee may think fit.
- (6) The Professional Conduct Committee shall thereafter inform the Council of the decision. On receipt of such decision the Council shall direct the Registrar to take such steps as may be necessary to give effect to that decision.

PART III

PROCEDURE WHERE THE DECISION OF PROFESSIONAL CONDUCT COMMITTEE IS POSTPONED

24. (1) Where under any of the preceding provisions of these regulations, the decision of the Professional Conduct Committee as respects any case stands postponed to a future meeting of the Professional Conduct Committee (hereinafter referred to as the "Subsequent Meeting") the Attorney-at-Law shall, not less than six weeks before the date fixed for the said meeting, serve on the practitioner a notice :-

- (a) specifying the date, time and place fixed for the subsequent meeting; and
- (b) requiring him to appear thereat.

(2) A notice under paragraph (1) shall, unless the President otherwise directs, require the practitioner to furnish the Registrar with the names and addresses of a specified number of persons to whom reference may be made as to the character of the practitioner.

(3) Every such notice shall be sent to the practitioner by registered post addressed to him at his address shown on the register, or to his last known address if that address differs from his address in the register and it appears to the Attorney-at-Law that such service will be more effective.

- (4) In every case where there is a complaint, a copy of the said notice shall be served on the complainant.

25. (1) A notice served on a practitioner under regulation 24 shall require the practitioner, not less than three weeks before the date fixed for the meeting at which his case is to be reconsidered, to transmit to the Registrar:-
- a statement or affidavit by the practitioner setting out any facts which he desires to bring to the notice of the Professional Conduct Committee on the reconsideration of his case, being the facts which have arisen since the hearing of his case; and
 - a copy of any statement or affidavit, being a statement or affidavit upon which he wishes to rely and which relates to his conduct or capacity since the hearing of his case.
- (2) In any case where there is a complainant, a copy of any statement or affidavit sent by the practitioner to the Attorney-at-Law in terms of paragraph (1) shall also be sent to the complainant by the Attorney-at-Law and the complainant may send to the Attorney-at-Law any statement or affidavit by himself or by any other person as to matters set out in any statement or affidavit so sent by the practitioner.
26. If, since the original hearing, a fresh complaint or report has been preferred against the practitioner and such complaint or report has been duly referred to the Professional Conduct Committee for hearing at the subsequent meeting the Professional Conduct Committee shall first inquire into such complaint or report, and if in that inquiry the practitioner admits the charge preferred against him or if the Professional Conduct Committee determines that the charge has been proved, then notwithstanding anything to the contrary in the preceding provisions of these regulations, the Professional Conduct Committee shall as if such charge were one of the charges on which the decision of the Professional Conduct Committee has been postponed to the subsequent meeting.
27. At the subsequent meeting, the Chairman shall first invite the Attorney-at-Law to state for the information of the Professional Conduct Committee the position in which the case stands, and thereafter the Professional Conduct Committee may :-
- hear any other party to the proceeding; or
 - receive such further oral or documentary evidence in relation to the case or to the conduct of the practitioner since the last hearing, as the Professional Conduct Committee may think fit.
28. The Professional Conduct Committee shall then consider and determine whether or not the Professional Conduct Committee should order to take action under Section 25(1)(a) of the Ordinance and the determination of the Professional Conduct Committee may think fit.

PART IV
RESTORATION OF NAMES TO A REGISTER

29. Where a practitioner whose name has, under Section 25(1)(a) of the Ordinance, been erased from the relevant register, applies for the restoration of his name to the register, the following procedure shall apply in relations to such application :-
- The Professional Conduct Committee shall afford to the applicant an opportunity of being heard by the Professional Conduct Committee on the application.
 - The Professional Conduct Committee may require that before the Professional Conduct Committee comes to a determination in regard to the application, there shall have been submitted to the Professional Conduct Committee such affidavits or certificates, or adduced before the Professional Conduct Committee such oral evidence as the Professional Conduct Committee may consider necessary, as to the identity of the applicant or as to his conduct since his name was erased from the register.
 - The Professional Conduct Committee may, if it thinks fit, afford an opportunity of being heard on the application to any body granting the qualifying diploma, degree or certificate by virtue of which the applicant was registered, or to any body or person on whose complaint the applicant's name was erased from the relevant register.
 - Subject to the preceding provisions of this regulation, the procedure of the Professional Conduct Committee in connection with an application for the restoration of a name to a register shall be such as the Professional Conduct Committee may determine.
30. Every application for the restoration of a name to a register under Section 25(1)(b) of the Ordinance shall be made by means of a written statement addressed to the Registrar setting out the grounds upon which the application is made.

PART V
GENERAL

31. Nothing in these regulations shall be construed as preventing an inquiry being held into charges against two or more practitioners ; and where such an inquiry is held, regulations 14 to 28 (both inclusive) shall apply with the necessary adaptations and subject to such directions as may be given by the Professional Conduct Committee as to the order in which proceedings shall be taken under any of those regulations by or in relation to the several practitioners.
32. Where an inquiry is held under these regulations into more than one charge against a practitioner and such charge or charges which fall under regulations 16, 22, 23 or any two of them, the procedure to be followed at the inquiry shall be such as the Professional Conduct Committee may direct as the circumstances of the case may require.
33. Where in the interest of justice or for any other special reason it appears to the Professional Conduct Committee that the public should be excluded from any proceedings, or part thereof, the Professional Conduct Committee may, determine that the public may be so excluded.
34. (1) Subject to the provisions of paragraph (2) where the Professional Conduct Committee is considering any question specified in the Fourth Schedule to those regulations, the Professional Conduct Committee may direct that the Public and all the parties other than the practitioner shall be excluded.

(2) A direction under paragraph (1) of this regulation shall not apply to the announcement, in pursuance of any or these regulations, of any determination of the Professional Conduct Committee.

35. Subject to the provisions of regulations 33 and 34 all proceedings of the Professional Conduct Committee under these regulations shall be held in public.

36. (1) Where at any proceedings against a practitioner under these regulations, the Attorney-at-law who leads evidence and presents the case against such practitioner shall, for the purpose of regulations 37 and 38 be treated as a party.

(2) For the purpose of regulation 34, the Attorney-at-Law shall be treated as a party, if but only if, the case is one in which he is required or authorised by or under these regulations to act at the hearing otherwise than by stating the position of the case in accordance, with regulation 27.

37. Where a witness is produced by any party, he shall be first examined by the party producing him and then cross-examined by the other party and then re-examined by the party producing him. The Professional Conduct Committee may decline to admit the evidence of any deponent to a document which is not tendered, or who declines to submit to cross-examination.

38. The Members of the Professional Conduct Committee may through the Chairman, put questions to any witness or to any party to the proceedings.

39. The Professional Conduct Committee may receive any such oral or other evidence as would be receivable in a court of law.

40. The following provisions shall have effect as to the taking of votes of the Professional Conduct Committee on any question to be determined by the Professional Conduct Committee:-

(1) The Chairman shall call upon the members to signify their votes by raising their hands and shall then declare that the question appears to him to have been determined in the affirmative, or in the negative as the case may be.

(2) In the event of the result so declared by the Chairman being challenged by any member of the Professional Conduct Committee the Chairman shall :-

(a) call upon each member severally to declare his vote:

(b) announce his own vote; and

(c) announce the member or members of the Professional Conduct Committee who have voted each way and the result of the vote.

(3) Where on any question specified in the Fourth Schedule to these regulations the votes are equal such question shall be deemed to have been in favour of the practitioner.

(4) For the purpose of this regulation, the expression "practitioner" includes any person who has made an application for the restoration of his name under regulation 29.

41. Subject to the provisions of Sub-section (2) of Section 25 of the Ordinance, any party being a body corporate or an unincorporated body of persons may appear by an officer duly appointed for the purpose or by an Attorney-at-Law and any party being an individual may appear either in person or by an Attorney-at-Law or by any officer or member of any organization of which he is a member, or by any member of his family.

42. Any party to an inquiry shall, upon application made in that behalf to the Registrar and on payment of such fees as may be fixed in that behalf by the Professional Conduct Committee be furnished with a transcript of the shorthand notes, if any, of any part of the proceeding at which such party was entitled to be present.

43. The Attorney-at-Law or Counsel shall furnish each member of the Professional Conduct Committee with a copy of each document to be placed before the Professional Conduct Committee as evidence at any inquiry.

44. Where a party to any inquiry is represented by an Attorney-at-Law or Counsel, any reference in these regulations to such party shall be deemed to include, wherever the context admits, such Attorney-at-Law or Counsel.

45. Any matter authorized or required by these regulations to be done by the President or by the Vice-President, as the case may be, may if the President or Vice-President is absent or unable to act, be done by any member of the Council authorized in that behalf by the Council.

46. Any notice, other than a notice required under these regulations to be sent by registered post, may be sent by ordinary post or served personally.

47. The Professional Conduct Committee may appoint a shorthand writer to take shorthand notes of any proceedings held under these regulations.

PART VI REPEALS

48. The regulations made under Section 66 of the Ordinance and published in *Gazette* No. 11980, November 27, 1959 are hereby rescinded.

49. (1) In these regulations unless the context otherwise requires:-

"case relating to conduct" means a case where it is alleged that a practitioner :-

(a) being a medical practitioner or a dentist has been guilty of infamous conduct in a professional respect, ; or

- (b) being an apothecary has been guilty of inefficiency or negligence in the treatment of a patient or being an apothecary or estate dispenser of the description specified in Section 41, has been guilty of conduct which shows him to be unfit to practise medicine or surgery; or
- (c) being a pharmacist, midwife, or nurse has shown negligence or incapacity in his or her professional duties; or
- (d) being a para-medical assistant has shown negligence or incapacity in his or her professional conduct.

“Chairman” when used with reference to any meeting of the Preliminary Proceeding Committee or the Professional Conduct Committee, as the case may mean, the Vice President or the President of the Council, respectively and in the event of the Vice President being absent from any meeting of the Preliminary Proceedings Committee, the person elected by the Members to preside at such meeting.

“Charge”, means the charge specified in the notice of inquiry.

“Council”, means the Sri Lanka Medical Council established under Section 12 of the Ordinance;

“Ordinance”, means the Medical Ordinance (Chap.105).

“Practitioner”, means a person registered in any way under the Ordinance.

“President”, means the President of the Council.

“Relevant Register”, means :-

- (a) In the case of a Medical Practitioner, the register of Medical practitioners qualified to practise medicine and surgery in Sri Lanka.
- (b) In the case of a dentist, the register of dentists qualified to practise dentistry and dental surgery in Sri Lanka’.
- (c) In the case of an apothecary, the register of apothecaries kept under Section 41 of the Ordinance.
- (d) In the case of a pharmacist, the register of persons qualified to act as pharmacists in Sri Lanka.
- (e) In the case of a midwife, the register of women qualified to practise as midwives in Sri Lanka.
- (f) In the case of a nurse, the register of persons qualified to practise as nurses in Sri Lanka; and
- (g) In the case of a para-medical assistant, the register of persons qualified to practise as para-medical assistants in Sri Lanka.

(2) Any reference in these regulations to a practitioner, in relation to any complaint or report, or any proceedings taken under these regulations shall, except where the context otherwise require, be construed as a reference to the practitioner against whom such complaint or report has been made or such proceedings are taken.

FIRST SCHEDULE

Preliminary Proceedings Committee

(Regulation 6)

1. The Preliminary Proceedings Committee (hereinafter referred to as the “Committee”) shall consist of the person who for the time being is Vice President of the Council and four other members of the Council elected at a meeting of the Council by secret ballot from among the members of the Council.

The Registrar shall give at least ten days prior notice of such meeting to every member of the Council.

2. Every person elected to be a member of the Committee shall, unless he earlier vacates office, hold office for a period of three years from the date of his elections; and a member shall vacate office, if for any reason he ceases to be a member of the Council during the aforesaid period.

3. Three members of the Committee shall constitute a quorum at any meeting of the Committee.

4. The Vice-President of the Council shall be the Chairman of the Committee and shall preside at all meeting. If, for any reason, the Vice-President is absent, from any meeting of the Committee, the members present shall elect from among themselves a member to preside at such meeting.

5. No act or proceeding of the Committee shall be deemed to be invalid by reason only of the existence of any vacancy among the members or any defect in the appointment of any member thereof.

6. All questions for decision at any meeting of the Committee shall be decided by the vote of a majority of the members. In the case of an equality of votes, the Chairman or any other member presiding at any meeting of the Committee shall, in addition to his own vote, have a casting vote.

7. The Registrar shall be the Secretary of the Committee. He shall convene all meeting of the Committee and shall be entitled to be present at such meetings but shall not take part in actual deliberations thereof.

8. Any meeting of the Committee may be adjourned from time to time to such later date as the Committee may think fit.

9. The Committee shall have the following duties:-

- (a) to consider any complaint or report which is referred to the Committee in accordance with these regulations by the President; and
- (b) to prepare and transmit to the Professional Conduct Committee a report if after such consideration the Committee decides that there is a case which should be referred to the Professional Conduct Committee for inquiry.

10. Where a complaint or report is referred to the Committee under these regulations, the Committee shall, as soon as may be practicable, consider such complaint or report, and having regard to any explanation preferred or affidavits filed in support thereof, prepare and transmit its report thereon to the Professional Conduct Committee.

11. The Committee may, if it thinks fit, before transmitting its report to the Professional Conduct Committee on any complaint or report referred to it, cause such further investigations to be made or obtain such advice or assistance from the Attorney-at-Law or Counsel as it may consider necessary or requisite in the circumstances of the case.

SECOND SCHEDULE

(Regulation 11)

(1) The Professional Conduct Committee shall consist of the person who, for the time being is the President of the Council and ten other members of the Council elected at a meeting of the Council by secret ballot, from among the members of the Council who are not members of the Committee. The Registrar shall give at least ten days prior notice of such meeting to every such member of the Council.

(2) Every person elected to be a member of the Professional Conduct Committee shall, unless he earlier vacates office, hold office for a period of three years from the date of his election, and a member shall vacate office if, for any reason, he ceases to be a member of the Council during the aforesaid period.

(3) The President and members of the Professional Conduct Committee shall constitute a quorum at any meeting of the Professional Conduct Committee.

(4) The President of the Council shall be the Chairman of the Professional Conduct Committee and shall preside at all meetings thereof.

(5) The meetings of the Professional Conduct Committee shall be held once every successive week, unless agreed otherwise by the majority of members of the Professional Conduct Committee.

(6) Every member of the Professional Conduct Committee shall attend every meeting thereof and the absence of any member from any meeting, shall be a bar to such member from participating in any proceedings connected with the inquiry being held by the Professional Conduct Committee.

(7) (1) If the attendance of the members at any meeting of the Professional Conduct Committee falls below the quorum referred to in paragraph (3) above, such meeting shall be postponed for a further date.

(2) If for any reason the number of members eligible to participate at any inquiry falls below the quorum referred to in paragraph (3) above, a fresh Committee shall be constituted and the inquiry shall commence from the beginning before the Committee so constituted.

(8) The Registrar shall be the Secretary to the Professional Conduct Committee. He shall be entitled to be present at such meeting but shall not take part in the actual deliberations thereof.

(9) All questions other than those specified in the fourth schedule hereto for decision at any meeting of the Professional Conduct Committee shall be decided by the vote of a majority of the members. In the case of an equality of votes, the Chairman shall, in addition to his vote, have a casting vote.

THIRD SCHEDULE

(Regulation 12(3))

Form of Notice of Inquiry.

Colombo, 20_____.

Sir/Madam,

On behalf of the Professional Conduct Committee, notice is hereby given to you that in consequence of a complaint/ report made against you to the Professional Conduct Committee, an inquiry is to be held into the following charge/charges against you :-

(hereby specify the charge/charges) :-_____.

Notice is further given to you that on _____ day of _____ 19____ a meeting of the Professional Conduct Committee will be held at _____ a.m. /p.m. to consider the above mentioned charge/charges against you and to determine whether or not the Professional Conduct Committee should order to take action under Section 25(1)(a) of the Ordinance (Chapter 105).

You are hereby required to answer in writing the above mentioned charge/charges and also to appear before the Professional Conduct Committee at the place and time specified above either in person or by Attorney-at-Law. If you do not appear, the Professional Conduct Committee shall have the power to hear and decide upon the said charge/charges in your absence.

Any answer, explanation or other statement or communication which you may desire to make with regard to the said charge/charges should be addressed to the Attorney-at-Law to the Professional Conduct Committee and transmitted so as to reach him not less than _____ days before the day appointed for the holding of the inquiry.

If, for any reason, you desire a postponement of the inquiry, you may make an application on that behalf to the Attorney-at-Law to the Professional Conduct Committee forthwith stating the grounds on which you desire such postponement.

A copy of the Medical Disciplinary (Procedure) Regulations is sent herewith for your information.

Attorney-at-Law to the
Sri Lanka Medical Council

FOURTH SCHEDULE

(Regulation 34(1) and 40(3))

Questions to which Regulation 34(1) and 40(3) apply.

1. Any question as to whether the Professional Conduct Committee should proceed to inquiry, notwithstanding that the practitioner does not appear.
2. Any question as to whether the Professional Conduct Committee should uphold a submission or objection on a point of law, including any submission that no sufficient evidence has adduced, or that the facts alleged in a charge are such that the facts do not constitute infamous conduct in any professional respect.
3. Any question as to whether the decision of the Professional Conduct Committee in respect of any charge should be postponed.
4. Any question, as to whether the Professional Conduct Committee should proceed to determine whether a practitioner is guilty of infamous conduct in any professional respect or negligence or incapacity relating to professional duties, as the case may be, arising after the Professional Conduct Committee has arrived at a determination on the facts adduced.
5. Any question in a case whether it is proved that the practitioner has been convicted by a court of law or in a case where the practitioner has been found guilty of infamous conduct, in any professional respect, or negligence or incapacity relating to professional duties as the case may be, as to whether the Registrar should be directed to take action under Section 25(1)(a) of the Ordinance.

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