

CODE OF PRACTICE OF THE
MEDICAL LABORATORY
TECHNOLOGISTS BOARD OF HONG KONG

FOR THE GUIDANCE OF
REGISTERED MEDICAL
LABORATORY TECHNOLOGISTS

All persons registered under the Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations, 1990 are advised to read carefully through this paper and to acquaint themselves thoroughly with its contents, thereby avoiding the danger of inadvertently transgressing any part of the code which may lead to disciplinary action by the Medical Laboratory Technologists Board.

I. FOREWORD

The Medical Laboratory Technologists Board is established under the Supplementary Medical Professions Ordinance, Cap. 359. The Board's main function is to maintain a register of persons practising medical laboratory science and to promote adequate standards of professional practice and professional conduct amongst these persons.

2. A person practising medical laboratory science should at all times maintain standards of professional and personal conduct which reflect credit upon the profession. He should take every opportunity to improve his knowledge and professional competence, and share relevant professional experience and knowledge with his peers and subordinates. He should also collaborate with other health workers and related groups to meet the health needs of the individual, and support and promote public health programmes.

3. The purpose of this book is to provide a Code of Practice applicable to the profession. The code is intended to provide guidance for conduct and relationships in carrying out the professional responsibilities consistent with the ethical obligations of the profession and quality in medical laboratory work.

4. A copy of this book and each revision thereof will be served upon each person registered under the Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations.

5. All persons who are registered under these Regulations should in their own interests read and be familiar with the provisions of the Supplementary Medical Professions Ordinance, Cap. 359 and subsidiary legislation, and, in particular with:—

- (a) Supplementary Medical Professions Ordinance—Sections 16(1), 16(7), 18, 22 to 25 (inclusive); and
- (b) Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations—Parts III and IV.

These sections and regulations are reproduced at Appendices I and II. Full copies of the Ordinance and Regulations may be purchased from the Government Publications Centre at the Low Block, Ground Floor, Queensway Government Offices, 66 Queensway, Hong Kong.

6. A person who contravenes any part of the Code of Practice may be subject to inquiries held by the Board but the fact that any matters are not mentioned in the Code, shall not preclude the Board from judging a person to have acted in an unprofessional or improper manner by reference to those matters.

7. The Board considers a person to have committed a misconduct in a professional respect if that person, in the pursuit of his profession, has done something or omits to do something with regard to which it will be reasonably

regarded as disgraceful or dishonourable by his professional brethren of good repute and competency.

8. The Board wishes to emphasize that whatever is contained in the Code, every case referred to it will be considered on its own merits.

9. The Board also wishes to emphasize that, in considering convictions, it is bound to accept the determination of a court as conclusive evidence that the person was guilty of the offence of which he was convicted. A person who faces a criminal charge should remember this if he is advised to plead guilty, or not to appeal against a conviction, in order to avoid publicity or a severe sentence. It is not open to him, if he has been convicted of an offence, to argue before the Board that he was in fact innocent. It is therefore unwise for a person to plead guilty in a court of law to a charge to which he believes that he has a defence.

10. When the Secretary of the Board receives a complaint against a person or receives information relating to a person under Section 22(1) (a)–(e) of the Ordinance, he refers the complaint or information to the Preliminary Investigation Committee. This Committee decides whether or not the person concerned has a case to answer before the Board.

11. The Board alone decides whether any course of conduct amounts to unprofessional conduct. If that is proven, the Board then assesses the gravity of that misconduct and imposes a penalty commensurate with the gravity of the misconduct.

12. If a person desires to have detailed advice on questions of professional conduct arising in particular circumstances, he is advised to consult his professional association, his own legal adviser or senior colleagues for advice. The Board, having a quasi-judicial function, is not able to advise individuals directly.

13. The powers of the Board and the appeal procedures are detailed in Appendix I. The proceedings preparatory to hearing by the Board and those at hearing of the board, together with the duties of Legal Adviser, are detailed in Appendix II.

II. THE CODE OF PRACTICE

A. BASIC ETHICAL PRINCIPLES

A registered medical laboratory technologist shall—

- (a) respect the rights and dignity of all individuals;
- (b) serve clients, regardless of social status, culture, creed, politics, race or nationality;
- (c) carry out services to the best of his ability;
- (d) maintain at all times the highest standard of professional competence and strive continually to update and extend his professional knowledge and skill;
- (e) recognise the extent and limitations of his professional expertise and provide services that are within his competence;
- (f) refer any persons under his care to the appropriate medical and health team members whenever necessary;
- (g) respect the confidence imparted to him in the course of his professional duties, and will only discuss a patient's affairs with other members of the medical team responsible for the treatment/dignosis;
- (h) respect and cooperate with other medical laboratory technologists and members of related professions;
- (i) ensure that professional integrity is not influenced by motives of profit;
- (j) accept responsibility for reporting illegal activities or unethical conduct to the appropriate authorities; and
- (k) ensure that no service that requires the skill, knowledge and judgment of a medical laboratory technologist is delegated to a less qualified person and ensure that those under his supervision or in his employ are knowledgeable and capable in the performance of their duties.

B. MEANING OF PROFESSIONAL MISCONDUCT

A medical laboratory technologist is guilty of 'unprofessional conduct' when he, in the pursuit of his profession, does something or omits to do something, which in the opinion of his professional colleagues of good repute and competency, might be reasonably regarded as disgraceful or dishonourable or which falls below the standard of competency that his colleagues might regard as reasonable.

C. ROLES OF PROFESSIONALLY QUALIFIED DIRECTORS AND SUPERVISORS OF UNINCORPORATED LABORATORIES

Professionally qualified directors of incorporated laboratories, i.e., as defined in section 20(2)(a) of the Supplementary Medical Professions Ordinance, Cap. 359, and Part I medical laboratory technologists who are the supervisors of unincorporated laboratories should—

- (a) take the overall responsibility for the operation of the laboratories concerned;
- (b) ensure the laboratories are run ethically and professionally;
- (c) designate only registered medical laboratory technologists to perform laboratory tests;
- (d) ensure adequate supervision of Part II and Part III MLTs by registered Part I MLTs;
- (e) implement sound quality control practices in the laboratories to ensure reliable laboratory results; and
- (f) ensure that laboratory tests are conducted for the sole purpose of making and reporting on analysis or examination and that no false and unsubstantiated claims will be made as to the information that may be revealed from the result of a specific laboratory test.

D. DEPRECIATION OF OTHER HEALTHCARE PROFESSIONALS

No person registered or provisionally registered under the Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations should depreciate the professional skill, knowledge, services or qualifications of another medical laboratory technologist or other healthcare professionals. Medical laboratory technologists are however not prohibited from making fair and honest comments on a colleague if the professional conduct or competence or fitness to practise of the colleague may be called into question.

E. ISSUE OF LABORATORY REPORTS

MLTs who issued laboratory reports shall make sure that their full names and/or registration numbers are clearly and prominently stated on the reports below their signatures. Signatures of the MLTs may however not be required if their names and/or registration numbers on the laboratory reports are automatically generated by a computer system which traces and identifies the MLT who issues the report and which has built in adequate security features to protect the system against tempering and unauthorized access.

[The requirement under Section E will take effect from 1 November 2012]

F. OTHERS

No person registered or provisionally registered under the Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations should—

- (a) by any act or omission do anything or cause anything to be done which he has reasonable grounds for believing is likely either to endanger or affect adversely in a substantial way the health or safety of a patient or patients or members of the public;
- (b) hold himself out as a person who, by training and experience, is professionally qualified to diagnose or treat disease in man or in animal;
- (c) perform any tests for the purpose of medical diagnosis and treatment in the absence of a referral from registered medical, dental and/or veterinary practitioners, or a person registered in respect of a medical clinic exempted under Section 8(1) of the Medical Clinics Ordinance, Cap. 343 (See Note (i));
- (d) knowingly accept, obtain, assist in obtaining or report on any specimen for the purpose of medical diagnosis and/or treatment of disease, or make any investigation for those purposes unless the diagnosis and/or treatment are to be performed by a registered medical, dental, or veterinary practitioners, or a person registered in respect of a medical clinic exempted under Section 8(1) of the Medical Clinics Ordinance, Cap. 343 (See Note (i));
- (e) knowingly disclose to any other unauthorised person information obtained through his or her professional work on a patient's samples. Request for disclosure of specimen test results should be handled with due regard to the Personal Data (Privacy) Ordinance, Cap. 486. Registered medical laboratory technologists are asked to acquaint themselves with the requirements of the Personal Data (Privacy) Ordinance;
- (f) advertise in an untrue or dishonest way, or advertise in a way which may damage the reputation of the profession, or advertise with details other than the name of the registered medical laboratory technologist, his/her business and telephone number, company name under which the medical laboratory technologist carries on his/her business, qualifications approved by the Board in their Chinese and English forms, service available, charges, turnaround time and announcement on commencement or removal of practice (See note (ii));

- (g) knowingly falsify or suppress a report of any laboratory investigation with which he may be concerned; and
- (h) share fees with any other person or institute unless the person or institute has taken a commensurate part in the medical laboratory service concerned. Giving or accepting rebates is not permissible (See note (iii)).

- Note:—*
- (i) Unless there is specific evidence to the contrary, it is considered that a person who has carefully followed procedures which have been approved by hospitals and similar institutions will not be considered to be in breach of this requirement. Even in those cases where there is specific evidence, the Board may take into account special circumstances that a breach of this rule should not make the person guilty of misconduct in a professional respect.
 - (ii) Size and lettering of signboards should conform to the specifications and descriptions laid down by the Board.
 - (iii) Discount is considered to be a form of rebate. Discount is permissible only if it is intended for the patient, and is shown clearly in the bill. In this context, ‘patient’ includes an employer who pays fees on behalf of an employee, and an institution or organisation which is responsible for the fees of a person in its care.

Amended on 26.4.2012

**Sections Extracted from the
Supplementary Medical Professions Ordinance, Cap. 359**

- Section 16(1) A person registered shall not practise a profession in Hong Kong unless he is the holder of a practising certificate which is then in force.
- 16(7) A person who is required under this section to be the holder of a practising certificate shall not be entitled to recover any fees, costs or other remuneration on any cause of action relating to the practice of his profession unless he was, at the time when the cause of action arose, the holder of a valid practising certificate.
- 18(1) A person registered shall keep displayed in a conspicuous position in any premises in which he practises his profession, his certificate of registration, or a certified copy of such certificate issued under section 14(3).
- 18(2) A person registered who fails to comply with subsection (1) commits an offence.
- 18(3) A person who displays or causes or permits to be displayed in any premises, a certificate of registration or a certified copy of a certificate of registration bearing his name or photograph, at a time when his name does not appear on the register kept for the profession to which that certificate relates, commits an offence.
- 22(1) If after due inquiry into any case referred to it by a Preliminary Investigation Committee in accordance with regulations made under section 29 a board is satisfied that a person registered by that board:—
- (a) has been convicted in Hong Kong or elsewhere of an offence punishable with imprisonment;
 - (b) has been guilty in Hong Kong or elsewhere of unprofessional conduct;
 - (c) was not at the time of his registration qualified to be registered;
 - (d) has obtained registration by fraud or misrepresentation; or
 - (e) has not complied with or is in breach of any condition of his registration (other than a condition under section 15) or has failed to comply with this Ordinance,
- the board may:—

- (i) order the name of the person registered to be removed from the register;
- (ii) order the name of the person registered to be removed from the register for such period as it thinks fit;
- (iii) order the person registered to be reprimanded; or
- (iv) order that a warning letter in such terms as it considers appropriate be served on the person registered.

- Section 22(2) Within 1 month after the expiry of the time within which an appeal against an order made by a board under subsection (1) may be made to the Court of Appeal under section 25 or if such appeal has been made, within 1 month after the appeal is finally determined, the board:—
- (a) shall, in the case of an order made under subsection (1)(i), (ii) or (iii), publish the order or, if the order is varied on appeal the order as so varied in the Gazette together with an account of the particulars and the nature of the matter to which such order relates; and
 - (b) may, in the case of an order made under subsection (1)(iv), publish the order or, if the order is varied on appeal, the order as so varied in the Gazette together with an account of the particulars and the nature of the matter to which such order relates.
- 22(3) In any inquiry held under this section, a board may make such order as it thinks fit for the payment of the costs of its secretary, a complainant, counsel or a solicitor present at the inquiry and the person registered or any one or more of them and any costs awarded may be recovered as a civil debt.
- 22(4) Nothing in this section shall require a board to inquire into the question whether the person registered was properly convicted but the board may consider any record of the case in which such conviction was recorded and any other evidence which may be available and is relevant as showing the nature and gravity of the offence.
- 22(5) In any inquiry under this section as to whether a person has been guilty of unprofessional conduct, any finding of fact which is shown to have been made in any matrimonial proceedings in a court in a common law jurisdiction which has unlimited jurisdiction in civil matters, or on appeal

from a decision in such proceedings, shall be conclusive evidence of the fact found.

- Section 23(1) For the purposes of an inquiry under section 13 or 22 or when it otherwise appears desirable to a board that any matter relating to the relevant profession should be inquired into, the board shall subject to subsection (4) have power:—
- (a) to hear, receive and examine evidence on oath;
 - (b) to summon a person to attend the inquiry to give evidence or produce a document or other thing in his possession and examine him as a witness or require him to produce a document or other thing in his possession;
 - (c) to admit to the inquiry or to exclude therefrom the public or any member of the public;
 - (d) to admit to the inquiry or to exclude therefrom the press; and
 - (e) to award any person summoned to attend the inquiry such sum or sums as in the opinion of the board may have been reasonably expended by him by reason of his attendance.
- 23(2) A summons under subsection (1) shall be in the prescribed form and signed by the secretary of the board.
- 23(3) Subject to subsection (4), a person who:—
- (a) being summoned under subsection (1) to attend an inquiry to give evidence or to produce a document or other thing in his possession, refuses or neglects to do so; or
 - (b) being examined under subsection (1) as a witness by or before a board, refuses or neglects to answer a question put to him by or with the concurrence of the board, or to produce a document or other thing in his possession when required to do so,
- commits an offence.
- 23(4) Notwithstanding subsection (3) a person who appears as a witness before a board shall be entitled to the same privileges in respect of the giving of evidence and the production of a document or other thing as he would be entitled to if appearing as a witness in civil proceedings before the Court of First Instance.

- Section 23(5) A person whose conduct is the subject of an inquiry, or who is implicated or concerned in the subject matter of the inquiry, shall be entitled to be represented by counsel or a solicitor at the inquiry.
- 23(6) A person who:—
- (a) behaves in an insulting manner or uses any abusive, threatening or insulting expression to or in the presence of a board; or
 - (b) wilfully disrupts the proceedings of a board, commits an offence.
- 24(1) The secretary of a board shall cause a copy of any decision of the board under section 13(3) or of any order made by the board under section 22 to be served forthwith upon the person concerned.
- 24(2) No order of a board under section 22(1) shall take effect while the person to whom the order relates remains entitled to appeal to the Court of Appeal against the decision in accordance with section 25 or, if such an appeal has been made, before the appeal is finally determined.
- 25(1) Any person whose application for registration is declined under section 13(3) or a person registered who is aggrieved by an order made in respect of him under section 22(1) may appeal to the Court of Appeal and the Court of Appeal may thereupon affirm, reverse or vary the decision or order appealed against.
- 25(2) (Repealed 10 of 2005 s. 75)
- 25(3) The Court of Appeal may make such order for the payment of costs as it considers reasonable.
- 25(4) Subject to subsection (5), the practice in relation to the appeal shall be subject to any rules of court made under the High Court Ordinance.
- 25(5) Notwithstanding subsection (4), the Court of Appeal shall not hear an appeal against a decision of a board under section 13(3) or an order made under section 22(1) unless notice of the appeal was given within 1 month of the service of a board's decision on the applicant or within 1 month of the service of the order under section 24, as the case may be.

**Regulations Extracted from Medical Laboratory Technologists
(Registration and Disciplinary Procedure)
Regulations, 1990**

PART III

PROCEEDINGS PREPARATORY TO HEARING BY THE BOARD

17. Preliminary Investigation Committee

(1) For the purposes of performing the functions conferred upon it by the Ordinance and these regulations, there shall be a Preliminary Investigation Committee consisting of—

- (a) a chairman who shall be a member of the Board nominated by the Board and appointed by the Chairman of the Board;
- (b) 2 medical laboratory technologists registered in Part I of the register and ordinarily resident in Hong Kong, not being members of the Board, nominated by an association of medical laboratory technologists in Hong Kong and appointed by the Chairman of the Board.

(2) Save as provided in Schedule 5 the members of the Committee shall hold office for 12 months but at the end of such period they may be re-nominated and reappointed.

(3) Schedule 5 shall apply to the Preliminary Investigation Committee.

18. Submission of complaint or information

(1) Where—

- (a) a complaint is made to the Secretary in respect of a registered medical laboratory technologist; or
- (b) information is received by the Secretary in respect of an application for registration,

as to any of the matters referred to in paragraph (a), (b), (c), (d) or (e) of section 22(1) of the Ordinance he shall submit the complaint or that information to the Chairman of the Committee.

(2) In this Part “complaint” includes information received by the Secretary under subregulation (1)(b) and submitted under that subregulation.

19. Complaint touching conduct

(1) Where, in a complaint submitted by the Secretary to the Chairman of the Committee under regulation 18, any allegation is made which in the opinion of the Chairman of the Committee gives rise to a question whether a registered medical laboratory technologist or an applicant for registration—

- (a) has been convicted in Hong Kong or elsewhere of an offence punishable with imprisonment;

- (b) has been guilty in Hong Kong or elsewhere of unprofessional conduct; or
- (c) may be guilty of any of the matters referred to in paragraph (c), (d) or (e) of section 22(1) of the Ordinance,

the Chairman of the Committee may require that the complaint be formulated in writing setting out the grounds thereof and, except where the complaint is in writing under the hand of a public officer, supported by one or more statutory declarations as to the facts of the case.

- (2) Each statutory declaration referred to in subregulation (1)—
 - (a) shall state the address and description of the declarant; and
 - (b) if any fact declared is not within the personal knowledge of the declarant, shall state the source of the declarant's information and the grounds for his belief in the truth of the facts.

20. Reference of complaint to the Committee

(1) On receiving a complaint submitted under regulation 19, the Chairman of the Committee shall, if satisfied that the complaint is frivolous or groundless and should not proceed further, dismiss it, and in any other case—

- (a) direct the Secretary that the complaint be referred to the Committee to consider whether it should be referred to the Board for inquiry; and
- (b) fix a date for the meeting of the Committee to consider the complaint.

(2) Where the Secretary is directed to refer a complaint to the Committee, he shall—

- (a) refer the complaint to the Committee;
- (b) notify the respondent of the receipt of the complaint;
- (c) inform him of the substance thereof;
- (d) forward to him a copy of any statutory declaration furnished under regulation 19(1);
- (e) inform him of the date fixed for the meeting of the Committee to consider the complaint; and
- (f) invite him to submit to the Committee any explanation he wishes to offer for his conduct or any other matter alleged in the complaint.

21. Consideration of complaint by the Committee

(1) The Secretary shall, at the meeting at which the complaint is considered, put before the Committee the complaint, any statutory declaration received therewith, any explanation submitted by the respondent and any other available document or matter in the nature of evidence relevant to the complaint.

(2) The Committee shall consider any documents or matter put before it under subregulation (1) and, subject to subregulation (3), shall determine either—

- (a) that no inquiry shall be held; or
- (b) that the complaint shall in whole or in part be referred to the Board for inquiry.

(3) Before coming to a determination under subregulation (2), the Committee may cause to be made such further investigations and may obtain such additional advice or assistance as it considers necessary.

22. Determination of Committee that no inquiry be held

(1) If the Committee determines that no inquiry shall be held, it shall direct that the complaint be dismissed and the Secretary shall inform the respondent and the complainant, if any, accordingly.

(2) If the Committee determines that an inquiry shall be held, it shall refer the case to the Board and the Chairman of the Committee shall notify the Chairman of the Board of the matters into which inquiry is to be made.

23. Determination of Committee that inquiry be held

(1) Where a matter is referred to the Board under regulation 22(2), the Chairman of the Board shall fix a date for holding an inquiry and the Secretary shall, within 1 month of the determination of the Committee to refer the complaint to the Board, serve on the respondent a notice of inquiry which shall be in accordance with Form 4 in Schedule 2 together with a copy of these regulations.

(2) A notice of inquiry shall—

- (a) in a case where the complaint is that the respondent has been guilty of misconduct, state in the form of a charge, which shall be formulated by the Secretary, the matters into which inquiry is to be held;
- (b) in any other case, state the allegation contained in the complaint; and
- (c) specify the date, time and place at which the inquiry is proposed to be held.

(3) An inquiry shall not be held until 28 days after the date of service of the notice of inquiry unless the respondent consents in writing to holding it earlier.

(4) Service of a notice of inquiry on the respondent shall be by registered post addressed to him at his registered address or at his address last known to the Secretary if different.

(5) Within the time stipulated for service of the notice of inquiry, the Secretary shall send a copy of the notice of inquiry to any complainant.

24. Adjournment of inquiry

(1) The Chairman of the Board may, at any time, adjourn any inquiry to such date as he thinks fit.

(2) Notice of any such adjournment shall be given to the respondent and to any complainant.

25. Documents to be furnished to Board

The respondent and any complainant shall furnish to the Secretary, not less than 10 days before the date of an inquiry or such lesser period as the Board may determine, 2 copies of all documents upon which he intends to rely at the hearing of the said inquiry.

26. Documents to be available to each party

The Secretary on the request of the respondent or a complainant and on the payment of reasonable charges (if any) shall send to the respondent or to the complainant, as the case may be, copies of any document sent to the Secretary by the other party for the purposes of an inquiry.

27. Notice to produce

Any party may at any time give to any other party notice to produce any document alleged to be in the possession of that party and, on failure to produce such document, may prove the contents thereof by any alternative method.

28. Amendment of notice

(1) Where before the hearing or at any stage of the hearing it appears to the Board that a notice of inquiry is defective, the Chairman of the Board may give such directions for the amendment of the notice as he may consider necessary to meet the circumstances of the case unless, having regard to the merits of the case, he is of the opinion that the required amendments cannot be made without prejudice to the respondent.

(2) The Secretary shall, as soon as is practicable, after the amendment of a notice of inquiry, give notice in writing thereof to the respondent and to any complainant.

PART IV

PROCEEDINGS AT HEARING OF THE BOARD

29. Interpretation

In this Part—

“order” means an order made by the Board in the exercise of its powers under section 22 of the Ordinance;

“Secretary” includes a counsel, a solicitor or a legal officer appointed in pursuance of regulation 31.

30. Record of proceedings

(1) A shorthand writer may be appointed by the Board to prepare a verbatim record of the proceedings.

(2) If a verbatim record of any proceedings or any part of any proceedings has been prepared the Chairman of the Board, on application to him by any party and on the payment of reasonable charges (if any), shall furnish such party with a copy of such record.

31. Appointment of counsel, solicitor or legal officer as Secretary

On the application of the Secretary of the Board appointed under section 5(4)(a) of the Ordinance, the Secretary for Justice may appoint a counsel, a solicitor or a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87) to carry out the duties which a secretary has to perform in an inquiry where the complainant is not present or represented by counsel or solicitor.

32. Opening of inquiry

(1) At the opening of an inquiry the Secretary shall read the notice of inquiry.

(2) If the respondent is not present and is not represented by counsel or a solicitor at the opening of the inquiry, the Secretary shall furnish to the Board such evidence as the Board may require that the notice of inquiry was served on the respondent in accordance with regulation 23(4) and, on being satisfied as to such evidence, the Board may proceed with the inquiry in the absence of the respondent.

(3) If the respondent is present at the inquiry the Chairman of the Board, immediately after the notice of inquiry has been read, shall inform him of his right to cross-examine witnesses, to give evidence and to call witnesses on his behalf.

33. Objections on point of law

(1) After the reading of the notice of inquiry the respondent, or his counsel or solicitor, may object to any charge or allegation as the case may be on a point of law and the Secretary and any other party to the inquiry may reply thereto and, if the Secretary or any party replies to that objection, the respondent, or his counsel or solicitor, shall be permitted to answer such reply.

(2) If such objection is upheld by the Board the charge to which such objection relates shall be considered only subject to such objection.

34. Order of procedure before Board

(1) After the reading of the notice of inquiry the order of procedure set out in paragraphs (2), (3), (4), (5), (6), (7) and (8) shall be observed.

(2) The complainant, or his counsel or solicitor, or in their absence, or if there is no complainant, the Secretary, shall present the case against the respondent and adduce the evidence in support thereof and then close the case against the respondent.

(3) At the close of the case against the respondent, he or his counsel or solicitor may make either or both of the following submissions in relation to any charge or allegation in respect of which evidence has been adduced—

- (a) that sufficient evidence has not been adduced upon which the Board can find that the facts alleged in the complaint have been proved;
- (b) that the facts alleged in the complaint are not such as to constitute the offence charged or the allegation made against the respondent.

(4) Where a submission is made under subregulation (3), a reply thereto may be made by the complainant, or by his counsel or solicitor, or in their absence by the Secretary, and the respondent may answer such reply.

(5) The Board shall determine whether the submission made under subregulation (3) shall be upheld and the Chairman of the Board shall announce the determination of the Board.

(6) If the Board—

- (a) upholds the submission in respect of any charge or allegation, the finding shall be recorded that the respondent is not guilty on that charge or allegation;
- (b) rejects the submission, the Chairman of the Board shall call upon the respondent to state his case.

(7) When called upon to state the case, the respondent, or his counsel or solicitor, may adduce evidence in support of his case and may address the Board once either before or after adducing evidence.

(8) At the conclusion of the case of the respondent, the complainant, or his counsel or solicitor, or in their absence the Secretary, may address the Board in reply—

- (a) if evidence other than the respondent's own evidence was adduced on the respondent's behalf; or
- (b) with the special leave of the Board.

35. Determination by Board or postponement to future meeting

At the conclusion of the proceedings the Board shall either—

- (a) determine whether the facts alleged in any charge or allegation have been proved to its satisfaction and whether the respondent is guilty as alleged or charged; or
- (b) postpone its determination to a future meeting to be held on a date to be decided by the Board,

and the Chairman of the Board shall announce the decision of the Board.

36. Notification of future meeting

(1) Where the Board decides to postpone its determination to a future meeting, the Secretary shall, not less than 1 week before the date fixed for such future meeting, serve on the respondent a notice specifying the date, time and place fixed for the meeting of the Board and invite the respondent to appear at such meeting.

(2) A notice under subregulation (1) shall be served in accordance with regulation 23(4), and a copy of the notice shall be sent to the complainant, if any.

37. Determination by Board at future meeting

At any future meeting of the Board referred to in regulation 35(b), the Board shall determine whether the facts alleged in any charge or allegation have been proved to its satisfaction and whether the Board finds the respondent guilty as alleged or charged and the Chairman of the Board shall announce the Board's determination.

38. Making of an order or postponement to future meeting

Where the Board makes a finding of guilt or that any allegation against the respondent has been proved under regulation 35(a) or 37, it shall—

- (a) if the respondent is a registered person, subject to regulation 41, make an order; and
- (b) if the respondent is an applicant for registration, subject to regulation 41, decide whether to decline his application for registration; or
- (c) postpone to a future meeting to be held on a date to be decided by the Board, the making of an order under paragraph (a) or a decision under paragraph (b),

and the Chairman of the Board shall announce the decision of the Board.

39. Notification of future meeting

(1) Where the Board postpones to a future meeting the making of an order or a decision under regulation 38, the Secretary shall, not less than 1 week before the date fixed for such meeting, serve on the respondent a notice specifying the date, time and place fixed for the meeting and inviting him to appear at the meeting.

(2) A notice under subregulation (1) shall be served on the respondent in accordance with regulation 23(4), and a copy of the notice shall be sent to the complainant, if any.

40. Making of order at future meeting

At any future meeting referred to in regulation 38, the Board shall, subject to regulation 41—

- (a) if the respondent is a registered person, determine the order to be made; and
- (b) if the respondent is an applicant for registration, decide whether to decline his application for registration,

and the Chairman of the Board shall announce the determination or decision of the Board.

41. Opportunity for mitigation

(1) At any meeting of the Board at which the Board makes in respect of a respondent an order or a decision to decline his application for registration, before the order or decision is made, an opportunity shall be given to the respondent or his counsel or solicitor to make a statement in mitigation and to adduce evidence as to the circumstances leading to the commission of the offence or the conduct complained of and as to the character and antecedents of the respondent.

(2) At any meeting referred to in subregulation (1), before the order or decision of the Board is made—

- (a) the Secretary or any other person presenting the case against the respondent may, if the respondent has been the subject of a previous order, produce to the Board the records of the meeting at which that order was made; and
- (b) the respondent, in person or by his counsel or solicitor, may make a statement by way of mitigation and adduce evidence as to the circumstances leading to the previous order.

42. Evidence

(1) Evidence may be taken by the Board by oral statement on oath or by written deposition or statement.

(2) A summons under section 23(1)(b) of the Ordinance to any person requiring him to attend an inquiry to give evidence or produce any document or other thing in his possession shall be in accordance with Form 5 in Schedule 2.

(3) Every witness shall be examined by the party producing him, and may then be cross-examined by the other party and may be re-examined by the party producing that witness only upon matters arising out of the cross-examination.

(4) The Board may decline to admit the evidence of any deponent to a document who is not present for, or who declines to submit to, cross-examination.

(5) The Chairman of the Board, and members of the Board through the Chairman of the Board, may put such questions to the parties or to any witness as they may think desirable, and the other parties may then re-examine such party or witness on matters arising out of such questioning.

43. Voting

(1) In the taking of the votes of the Board on any question to be determined by it, the Chairman of the Board shall call upon the members to signify their votes and shall thereupon declare the determination of the Board in respect of such question.

(2) Where the determination of the Board so declared by the Chairman of the Board is challenged by any member of the Board, the Chairman of the Board shall call upon each member severally to declare his vote, announce his own vote and announce the number of members of the Board who have voted each way, and the result of the vote.

(3) Where on any question to be determined by the Board the votes are equal, the question shall be deemed to have been decided in favour of the respondent.

(4) No person other than members of the Board and the Legal Adviser shall be present when the Board votes on any matter.

PART V

DUTIES OF LEGAL ADVISER

44. Inquiry by the Board

The Legal Adviser shall be present at every inquiry held by the Board in accordance with section 13 or 22 of the Ordinance and no such inquiry shall commence if the Legal Adviser is not present.

45. Ordinary meetings of Board

The Chairman of the Board may give to the Legal Adviser prior notice that his advice may be required at any meeting of the Board, other than an inquiry under section 13 or 22 of the Ordinance, or at any meeting of the Committee and, if such notice is given, the Legal Adviser shall be present at such meeting.

46. Advice by Legal Adviser

(1) When the Legal Adviser advises the Board on any question of law as to evidence, procedure or any other matter in any inquiry under section 13 or 22 of the Ordinance he shall do so in the presence of every party to the proceedings or the person representing each party or, if the advice is tendered after the Board has commenced to deliberate as to its findings, every such party or person as aforesaid shall be informed of the advice that the Legal Adviser has tendered.

(2) In any case where the Board does not accept the advice of the Legal Adviser on any such question as aforesaid, every such party or person shall be informed of this fact.

**Supplement to Code of Practice of
Medical Laboratory Technologists Board of Hong Kong**

Size and Lettering of Signboards

Signs

The Board disapproves of the exhibition in connection with a practice of any sign which, by its nature, position, size or wording, exceeds what is reasonably necessary to indicate the location of, and entrance to the premises concerned.

I. Signboards

A. General

Signboards may not be exhibited anywhere except on the premises at which the practice to which they refer is conducted.

* Signboards may not be ornate, nor may they be illuminated except at night or when situated in a dark place. The illumination should be the minimum necessary to allow the contents to be read. Flashing signs are not permitted.

B. Definition

The word 'signboard' means any composite notice(s) exhibited by a registered medical laboratory technologist to identify his practice to the public.

C. Particulars

The only particulars which may appear on signboards are:

- a.* The name of the registered medical laboratory technologist (or the name by which the practice is known), in Chinese and English.
- b.* The term 'registered medical laboratory technologist'.
- c.* Qualifications recognised by the Board in the approved Chinese and English abbreviated forms.
- d.* An indication of the situation in the building of the medical laboratory technologist's office.
- e.* The hours of attendance at such office.

D. Dimensions

The area of a signboard is taken to be the length multiplied by the breadth of its face, or faces, including all borders.

Where only one face is visible that face may not exceed in size the aggregate of the permitted maximum size of a signboard in that precise location.

Where two faces are visible (i.e. can be read from two different directions) then the areas of the two faces added together must not exceed the permitted maximum size of a signboard in that precise location.

Where three faces are visible (i.e. can be read from three different directions) then the areas of the three faces added together must not exceed the permitted maximum size of a signboard in that precise location.

The areas of any number of faces on any one signboard must not in aggregate exceed the permitted maximum size of a signboard in the precise location.

E. Generally Permitted

Every registered medical laboratory technologist is permitted to exhibit one signboard on or beside that door which gives immediate and direct access to his office. The size of the signboard beside that door must not exceed six square feet.

F. Additional Signboards Permitted

a. For Ground Floor Offices with direct access from the pavement

One Signboard: The wording of which is visible from the street, exhibited below first floor level.

N.B. For offices in this category, no more than two signboards in total may be exhibited.

b. For Offices situated within a building having one public entrance

One Signboard: The wording of which is visible from the street, exhibited at the floor level where the practice is conducted.

One Signboard: The wording of which is visible from the street, exhibited adjacent to the public entrance to the building.

N.B. For offices in this category, no more than three signboards in total may be exhibited.

c. For Offices situated within a building having more than one public entrance

One Signboard: The wording of which is visible from the street, exhibited at the floor level where the practice is conducted.

Two Signboards: The wordings of which are visible from the street, exhibited adjacent to a maximum of two public entrances to the building.

N.B. For offices in this category, no more than four signboards in total may be exhibited.

NOTE (1) The maximum number of signboards permitted in total includes the one 'Generally permitted' plus the number shown under 'Additional Signboards permitted'.

(2)(i) No additional signboard exhibited below First Floor level may exceed six square feet.

(2)(ii) No additional signboard exhibited at Mezzanine Floor or First Floor level may exceed eight square feet.

(2)(iii) No additional signboard exhibited at a level above First Floor level may exceed twelve square feet.

II. Directory Boards

Where directory boards are provided in buildings having a number of entrances and lobbies there will be no objection to the use of whatever number of boards are provided. The particulars which may appear on directory boards are those which may appear on signboards. Each entry must conform to the standard size for every other entry on the board.

III. Directional Notices

Directional notices must contain only the name of the registered medical laboratory technologist or the name by which the practice is known, the permitted prefix and the room number of his premises. They can be exhibited only inside a building. The numbers which may be exhibited will be left to the discretion of the medical laboratory technologist but the guidance given at the beginning of this section under, 'Signs;' must be given due consideration.

Directional notices must not exceed one square foot in area and all borders must be included in the calculation.

IV. Notices of Consulting Hours

Every registered medical laboratory technologist is permitted to exhibit one separate notice containing his name and details of his practice hours provided that this information is not already shown on some other sign. The placement of such a notice is left entirely to the medical laboratory technologist. However, it is emphasized that only one such notice is permitted and its maximum size, including borders, is limited to two square feet.