

CODE OF PRACTICE OF THE  
OCCUPATIONAL THERAPISTS BOARD  
HONG KONG

FOR THE GUIDANCE OF  
REGISTERED OCCUPATIONAL THERAPISTS

1998

*(N.B. All Registered Occupational Therapists are advised to read carefully through this pamphlet and to acquaint themselves thoroughly with its contents thereby avoiding the danger of inadvertently transgressing accepted codes of professional ethical behaviour which may lead to disciplinary action by the Occupational Therapists Board)*

## FOREWORD

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

2. The purpose of the Code is to provide guidance for conduct and relationships in carrying out the professional responsibilities consistent with the ethical obligations of the profession.

3. A registered occupational therapist should observe the basic ethical principles outlined in Part I; understand the meaning of 'Professional Conduct' explained in Part II; and be aware of convictions and forms of professional misconduct detailed in Part III which may lead to disciplinary proceedings.

4. A registered occupational therapist should all times maintain standards of professional and personal conduct which reflect credit upon the profession. He should discharge his duties and responsibilities to the patients, the profession, the other members of the health care team and to the public in general with interest, honour and integrity; and should maintain an optimum standard of practice by exercising competent professional judgement and by continually striving to improve his knowledge and professional skills.

5. A copy of this book and each revision thereof will be served upon each person registered under the Occupational Therapists (Registration and Disciplinary Procedure) Regulations.

6. All registered occupational therapists 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—Section 22 to 25 (inclusive); and
- (b) Occupational Therapists (Registration and Disciplinary Procedure) Regulations 17 to 43 (inclusive).

These sections and regulations concern disciplinary matters and are reproduced at Part IV. Full copies of the Ordinance and Regulations may be purchased from the Government Publications Centre, Hong Kong.

7. 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.

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 charges should remember this if he is advised to plead guilty, or not to appeal against a conviction, in order to avoid publicity or 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 simply 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 professional misconduct. If that is proved, 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.

**PART I**  
**BASIC ETHICAL PRINCIPLES**

A registered occupational therapist shall:—

1. Respect the rights and dignity of all individuals
2. Serve clients, regardless of social status, culture, creed, politics, race or nationality.
3. Carry out services to the best of his ability.
4. Maintain at all times the highest standard of professional competence and strive continually to update and extend his professional knowledge and skill.
5. Recognise the extent and limitation of his professional expertise and provide services that are within his competence.
6. Refer any persons under his care to the appropriate health care team members whenever necessary.
7. Respect the confidence imparted to him in the course of his professional duties, and only discuss patients' affairs with other members of the medical team responsible for treatment.
8. Respect and co-operate with other occupational therapists and members of related professions and in relevant circumstances provide therapy service to patients in accordance with medical diagnosis.
9. Maintain an active interest in the planning and the provision of adequate health service for the community.
10. Ensure that professional integrity is not influenced by motives of profit.
11. Accept responsibility for reporting illegal activities or unethical conduct to the appropriate authorities.
12. Ensure that no service that requires the skill, knowledge, and judgement of the occupational therapist is delegated to a less qualified person and ensure that those under his supervision or in his employment are knowledgeable and capable in the performance of their duties.

## **PART II**

### **MEANING OF 'MISCONDUCT IN A PROFESSIONAL RESPECT'**

An Occupational Therapist is guilty of 'Misconduct in a professional respect' 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 that standard of competency that such a colleague might regard as reasonable.

## PART III

### CONVICTIONS AND FORMS OF PROFESSIONAL MISCONDUCT WHICH MAY LEAD TO DISCIPLINARY PROCEEDINGS

This part of the pamphlet sets out certain kinds of offences and professional misconduct which may lead to disciplinary proceedings by the Board. The Preliminary Investigation Committee and the Board must proceed as quasi-judicial bodies. Therefore this pamphlet cannot be a complete code of professional ethics, nor can it specify all offences which may lead to disciplinary action. It is simply a guide.

When actions taken by an occupational therapist are reported to the Secretary of the Board, it is initially investigated by the Preliminary Investigation Committee. This Committee decides whether or not the professional concerned has a case to answer before the Board.

The Board alone decides whether any course of conduct amounts to professional misconduct. If that is proved the Board then assesses the gravity of that misconduct and may impose any penalty which is commensurate with the gravity of the misconduct. Thereafter there is a route of appeal to the Court of Appeal.

Occupational therapists desiring detailed advice on questions of professional conduct arising in particular circumstances are advised to consult their professional association, their own legal advisers or senior colleagues for advice. The Board, having a quasi-judicial function, is not able to advise individuals directly.

The following paragraphs describe the more common types of offence or misconduct which may be regarded as grounds for disciplinary proceedings.

#### **1. Convictions punishable with imprisonment**

It is emphasized that any conviction in Hong Kong or elsewhere of any offence punishable with imprisonment will lead to subsequent disciplinary proceedings, irrespective of whether a prison term is imposed or not.

A particularly serious view is likely to be taken if an occupational therapist is convicted of criminal deception (e.g. obtaining money or goods by false pretences), forgery, fraud, theft, indecent behaviour or assault in the course of his professional duties or against his patients or colleagues.

#### **2. Disregard of professional responsibilities towards patients**

Disciplinary proceedings may be instituted in any case in which an occupational therapist appears to have disregarded his professional responsibility to treat or care for a patient or otherwise to have neglected his professional duties and responsibilities. Purely for guidance purposes, a list of cases which the Board would consider as constituting the offence of disregarding professional responsibilities toward patients is at Appendix I.

### **3. Abuse of alcohol or drugs**

Convictions for drunkenness, or other offences arising from the abuse of alcohol or drugs (for example, driving a motor car when under the influence of alcohol or drugs) may lead to disciplinary proceedings.

An occupational therapist who treats patients or performs other professional duties while under the influence of drink or drugs to such an extent as to be unfit to perform his professional duties is also liable to disciplinary proceedings.

### **4. Abuse of professional position in order to further an improper association or commit adultery**

An occupational therapist who abuses his professional position in order to further an improper, immoral, or indecent association or to commit adultery with a person with whom he stands in a professional relationship may be subjected to disciplinary proceedings.

### **5. Abuse of professional confidence**

Disciplinary proceedings may be taken where it is alleged that an occupational therapist has improperly or carelessly disclosed information obtained in confidence from or about a patient in the process of clinical investigation or treatment.

### **6. Advertising**

- (a) The tradition that all professions should refrain from self-advertisement has long been accepted. Advertising is incompatible with those principles which should govern relations between members of the profession and allied professions, and which could be a source of danger to the public. 'Advertising' in the context will be regarded by the Board in its broadest possible sense to include any means by which an occupational therapist is publicised, either by himself, his servants, agents or others, in a manner which can reasonably be regarded as promoting his own professional advantage. That an occupational therapist does not in practice personally benefit from the publicity is not a defence to the charge of advertising.
- (b) The professional misconduct of advertising may arise from the publication either directly or indirectly (in any form in Hong Kong or elsewhere) of matter that commends, draws attention to this skills, knowledge, services, or qualifications of professional occupational therapist, with or without the knowledge or sanction of that occupational therapist, or when the occupational therapist has either organised or failed to take reasonable steps to prevent, the publication of such advertising.
- (c) Advertising may also be considered to occur if an occupational therapist permits or fails to take adequate steps to prevent the publication, either directly to indirectly (in any form in Hong Kong or elsewhere), by other persons of matter which commands attention to his own professional

attainments or services. Advertising is also considered to occur if any publication draws similar attention to any organisation employing or using the professional services of that occupational therapist.

In determining in either set of circumstances whether professional misconduct has occurred, it is relevant to take into account:—

- (i) the extent and nature of, and possible reason for the publicity; and
- (ii) the question whether the arrangements appear to have been intended to serve to promote the occupational therapist's own professional advantage or financial benefit.

- (d) Advertising may arise from notices or announcements displayed, circulated, or made public by an occupational therapist in connection with his own practice, if such notice or announcements materially exceed the limits customary in the professions:

examples of permitted notices and announcements are given in Appendices. Rules for the guidance of occupational therapist in relation to signs, visiting cards, etc., entries in street or telephone directories, circulars and cocktail parties are set out below:—

- (i) *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*

*General.*

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

\* Signboards may 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.

*Particulars.*

The only particulars which may appear on signboards are:

- A. The name of the registered occupational therapist (or the name by which the practice is known), in Chinese and English.
- B. The term 'registered occupational therapist'
- 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 occupational therapist's office.
- E. The hours of attendance at such office.

*Definition.*

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



### *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 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.

### *Generally Permitted.*

Every registered occupational therapist 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.

### *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

- A. The maximum number of signboards permitted in total includes the one 'Generally permitted' plus the number shown under 'Additional Signboards permitted'.
- B. (1) No additional signboard exhibited below First Floor level may exceed six square feet.  
(2) No additional signboard exhibited at Mezzanine Floor or First Floor level may exceed six square feet.  
(3) 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 occupational therapist, 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 occupational therapist but the guidance given at the beginning of this section under, '(i) 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 occupational therapist 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 occupational therapist. However, it is emphasized that only one such notice is permitted and its maximum size, including borders, is limited to two square feet.

(ii) Stationery etc.

Stationery etc.: Stationery (visiting cards, letterheads, envelopes, assessment forms, notice etc.,) may contain only the occupational therapist's name; qualifications and appointments acceptable to the Board in the approved Chinese and English forms; address; telephone

numbers and consultation hours. Stationery should not be ornate, coloured, or professionally flattering. It should not contain any qualifications other than those acceptable to the Board, nor should it contain any indication of honorary, etc., positions held. Any occupational therapist whose stationery contains irrelevant or unacceptable information; qualifications which are unacceptable to the Board; abbreviations referring to the source of a qualification which may be taken by a lay person to represent an additional qualification; indications as to registration(s) acquired; reference to courses of clinical training; reference to periods of study; etc., may be considered to be guilty of misconduct in a professional respect.

(iii) Announcements of commencement of practice and of altered conditions of practice such as change of address, change of partnership or assistantship, telephone number, etc., are permissible provided that:

- A. A notice should not be inserted in more than two English and two Chinese newspapers. Two insertions may be made in each newspaper but these should be completed within one week.
- B. Where a registered occupational therapist's commencement of practice is announced in a notice of partnership or assistantship, a separate individual notice of commencement of practice should *NOT* be published.
- C. When giving notice of the closure of a branch office, mention should not be made of the address of any other office which is being used by the registered occupational therapist.
- D. A notice of 'Recommencement of Practice' should only be published where a registered occupational therapist has not practised in Hong Kong for a continuous period exceeding twelve months.
- E. A notice in any newspaper should be in black type only and no coloured decoration characters, illustration or wording should be used. The notice itself should be of a reasonable size not exceeding a maximum of 9 square inches. Draft notices which are considered by the Occupational Therapist Board to be in accordance with the tenets of professional conduct and ethics are given at Appendices II to IX.

(iv) *Entries in street or telephone directories.*

Such entries should be in normal type only and should accord with the particulars permitted to be used on signboards. Entries in any section of the Yellow pages except the alphabetical listing of occupational therapists are not permitted. Payment for any extra entry in telephone directories may be construed as advertising.

(v) *Circulars.*

The distribution of visiting cards, announcements, or similar forms of circular to persons who are not registered occupational therapists

may lead to a charge of advertising. Notice of change of address may be circulated to existing patients of the occupational therapist.

(vi) *Entertainment.*

The Board advises that the holding of any entertainment at an occupational therapist's professional premises by the occupational therapist on opening or transferring a practice may be construed as advertising and is therefore undesirable.

- (e) The question of advertising may also arise in a number of other contexts, such as books by occupational therapist, articles or letters or other items written by or about them in newspapers or magazines, and talks or appearances by occupational therapists on radio, television, or at public meetings. In such cases the identification of an occupational therapist need not in itself raise a question of advertising, but such a question may arise from the nature of the material printed or spoken.

The Board is nevertheless of the opinion that occupational therapists in giving interviews to radio, television or the lay press should preserve anonymity both as to name and identifiable photograph wherever possible when professional matters are under discussion. Official spokesmen for Government, University, professional associations, hospitals and charitable organisations when discussing matters of public interest may, however, find it necessary, in order to lend authority to their statements, to divulge their names, but not mention should be made of qualifications, experience or other personal professional particulars (for example, the fact that they are in practice).

The giving of lectures to lay audiences (e.g. club luncheons) is permitted if the aim is to give general information and if such lectures are advertised to club members only and provided that reports are not made on radio, television or in the lay press.

The Board does not consider it unethical for the name of an occupational therapist to be mentioned in press reports dealing with matters of general interest but again no mention should be made of qualifications, experience or other personal professional particulars (for example, the fact that they are in practice).

Occupational Therapists should take steps to ensure that ethical codes are respected whenever they have dealings with radio, television and press interviews and reporters.

- (f) Occupational Therapists may not advertise except in the following manner:—
- (i) writing to or calling on medical practitioners and medical institutions; and
  - (ii) including notices in registered medical and health care professional publications.

## **7. Depreciation of Other Occupational Therapists**

The depreciation of the professional skill, knowledge, services or qualifications of another occupational therapist or other occupational therapists may lead to disciplinary proceedings and should be carefully avoided.

## **8. Canvassing**

Canvassing for the purpose of obtaining patients, either personally, by servant, agent or others; whether directly or indirectly, or in association with or in the employment of persons or organisations which canvass, may lead to disciplinary proceedings. Except in an emergency the Board does not consider it permissible for a registered occupational therapist to call upon or communicate with any person who is not already a patient of his or her practice, with a view to providing advice or treatment. Moreover, the Board does not consider it permissible for a registered occupational therapist to canvass by means of the distribution of visiting cards other than as a result of a request for a card by an individual.

Association by occupational therapists with nursing homes, medical benefit societies, insurance companies etc. which advertise clinical and diagnostic services but which allow a free choice of occupational therapist does not violate the ethical code, but occupational therapists are warned that association with any such institution, company etc. which advertises clinical or diagnostic services to the general public and which directs patients to particular occupational therapists may be regarded as canvassing. This does not preclude any occupational therapist or panel of occupational therapists from being employed by an organization, company, school etc. which does not advertise clinical or diagnostic services provided that the names of such occupational therapists are supplied only to bona fide employees, scholars and their families by the management.

## **9. Misleading and unapproved descriptions and announcements**

The Board warns occupational therapists specifically against the use of descriptive wording such as 'Specialist' etc. and reference to positions held, employment, honorary appointments, or experience and qualifications which are unregistrable or not acceptable to the Occupational Therapists Board, on signboards, stationery, visiting cards, letterheads, envelopes, assessment forms, notices, etc. A list of qualifications acceptable to the Board in the approved Chinese and English abbreviated forms is issued to all registered occupational therapists. Copies may be obtained from the Secretary, Occupational Therapists Board of Hong Kong. Any registered occupational therapist who uses any title or description which may reasonably suggest that he possesses any professional status or qualifications, other than those which he in fact does possess will, in the opinion of the Board, be guilty of misconduct. In general the Board considers that any act or omission by a registered occupational therapist in connection with his practice which may mislead the public may be held to constitute misconduct.

Occupational therapists are warned that the use of any professional qualification in Chinese Characters immediately before or after the occupational therapist's name is not allowed. The only prefix or suffix in Chinese allowed to be used with the occupational therapist's name is 註冊職業治療師 (Registered Occupational Therapist.) Professional qualifications which are acceptable to the Board for use on signboards, letter-heads, visiting cards, etc., when used with the official Chinese version may appear in the section listing all his/her qualifications and must be of equal dimensions and print types. An illustration is at Appendix X.

#### **10. Improper financial transactions (Fee splitting)**

Sharing fees with any person who has not taken a commensurate part in the service for which the fees are charged is considered to be an unethical practice, as also is the provision or receipt of rebates, and may lead to disciplinary action. Any occupational therapist who improperly prescribes appliances in which he has a financial interest may also be regarded as having committed misconduct.

#### **11. Guidelines on Supervision**

- (i) All Part II/Part III registered occupational therapists should work under a full-time Part I registered occupational therapist.
- (ii) Depending on the experience of the Part II/Part III registered occupational therapist, duties may be delegated to him by a Part I registered occupational therapist who will also bear the responsibility for such therapy.

#### **12. Improper delegation of professional duties to unregistered person**

An occupational therapist who improperly delegates to a person who is not a registered occupational therapist duties or functions in connection with the treatment of a patient for whom the occupational therapist is responsible or who assists such a person to treat patients as though that person were a registered occupational therapist, is liable to disciplinary proceedings.

#### **13. Treating patients without appropriate referral**

An occupational therapist should treat patients referred from a registered medical practitioner, or a person registered in respect of a medical clinic exempted under section 8(1) of the Medical Clinics Ordinance, Cap. 343.

(Please note that the above-mentioned persons registered in respect of exempted medical clinics are permitted, under the Medical Clinics Ordinance, to provide medical service to the public in exempted clinics under restricted conditions. Their clinics are subject to inspection and registration control by the Registrar of Clinics, and their practice is regulated by way of a Code of Practice.)

In emergency and under certain other circumstances such as in community services, an occupational therapist may undertake treatment without a medical referral.

The above points serve only to illustrate that the occupational therapist is required to maintain the normal conventionally observed codes of behaviour in this regard.

#### **14. Conclusion**

It must be emphasized that the categories of misconduct described in this booklet cannot be regarded as exhaustive, since from time to time with changing circumstances, the Board's attention may be drawn to new forms of professional misconduct. Any abuse by an occupational therapist of any of the privileges and opportunities afforded to him, or of any dereliction of professional duty or breach of professional ethics, may give rise to a charge of professional misconduct.

*Occupational Therapists Board*

**PART IV**  
**SECTIONS EXTRACTED FROM THE SUPPLEMENTARY**  
**MEDICAL PROFESSIONS ORDINANCE, CAP. 359**

**PART V**

Discipline

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.

(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.

(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 costs awarded may be recovered as a civil debt.



(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.

(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.

**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.

(2) A summon under subsection (1) shall be in the prescribed form and signed by the secretary of the board.

(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.

(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.

(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.

(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.

(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.

(2) (Repealed 10 of 2005 s. 75).

(3) The Court of Appeal may make such order for the payment of costs as it considers reasonable.

(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.

(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 THE  
OCCUPATIONAL THERAPIST (REGISTRATION AND  
DISCIPLINARY PROCEDURE) REGULATIONS**

**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) an occupational therapist registered in Part I of the register and ordinarily resident in Hong Kong, not being a member of the Board and who is practising as an occupational therapist in the employment of the Government or the Hospital Authority, nominated by the Hong Kong Occupational Therapy Association and appointed by the Chairman of the Board;
- (c) an occupational therapist registered in Part I of the register and ordinarily resident in Hong Kong, not being a member of the Board, who is practising as an occupational therapist other than as an employee of the Government or the Hospital Authority, nominated by the Hong Kong Occupational Therapy Association 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.

(4) In this regulation, "Hospital Authority" means the Hospital Authority established by section 3(1) of the Hospital Authority Ordinance (Cap. 113).

**18. Submission of complaint or information**

(1) Where—

- (a) a complaint is made to the Secretary in respect of a registered occupational therapist; 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 occupational therapist 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 to 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 in 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 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 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 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” (命令) means an order made by the Board in the exercise of its powers under section 22 of the Ordinance;

“Secretary” (秘書) 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 thereof 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 subregulations (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, 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 under subregulation (3) is made, 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.

(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 the 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.

**Appendix I**

**LIST OF CASES OF DISREGARD OF PROFESSIONAL RESPONSIBILITIES TOWARDS PATIENTS**

1. Failure to provide adequate evaluation, planning, implementation and supervision of the therapeutic program for a patient, reevaluation and alteration of that program; and maintain adequate records of the case.
2. Failure to recognise the extent and limitation of one's own professional expertise by attempting to carry out procedures of which the occupational therapist does not have the necessary knowledge and skill.
3. When the patient's needs are beyond the scope of the occupational therapist's expertise, the occupational therapist fails to inform the patient and fails to assist the patient in identifying a suitably qualified person to provide the necessary service.
4. Continuation of occupational therapist services beyond the point of possible benefit or by providing services more frequently than necessary for maximum therapeutic effect.
5. Failure to exercise independent and sound judgement upon receiving a referral which prescribes specific treatment for conditions or symptoms in which occupational therapist is contraindicated, and failure to initiate consultation with the referring source.
6. Improper delegation or supervision of treatment which requires the unique skill, knowledge and judgement of an occupational therapist to a less qualified person.

**Appendix II**

**NOTICE OF COMMENCEMENT OR PRACTICE**

has commenced

The undersigned

practice at

will commence

.....  
 (as from ..... 19.....)\*  
 Consulting Hours .....  
 Telephone No. ....

(Signed) ..... #

\* delete words in brackets where practice already commenced.

# qualifications acceptable to the Occupational Therapists Board may be shown in abbreviated form.

**Appendix III**

**NOTICE OF RECOMMENCEMENT OF PRACTICE**

The undersigned \_\_\_\_\_ has recommenced  
practice at \_\_\_\_\_  
will recommence

.....  
(as from ..... 19.....)\*  
Consulting Hours .....  
Telephone No. ....

(Signed) ..... #

- \* delete words in brackets where practice already recommenced.
- # qualifications acceptable to the Occupational Therapists Board may be shown in abbreviated form.

**Appendix IV**

**NOTICE OF REMOVAL**

The practice now carried on by the undersigned at  
.....  
will as from ..... 19.....  
be carried on at .....  
Consulting Hours .....  
Telephone No. ....

(Signed) ..... #

- # qualifications acceptable to the Occupational Therapists Board may be shown in abbreviated form.

**Appendix V**

**NOTICE OF OPENING OF A BRANCH OFFICE**

The undersigned will open a branch office at .....  
.....  
as from ..... 19.....  
Consulting Hours of branch office .....  
Telephone Number of branch office .....

(Signed) ..... #

- # qualifications acceptable to the Occupational Therapists Board may be shown in abbreviated form.

**Appendix VI**

**NOTICE OF CLOSING OF BRANCH OFFICE**

As from.....19..... the undersigned will not longer carry on practice at his/her/their branch office at .....

(Signed) ..... #

# qualifications acceptable to the Occupational Therapists Board may be shown in abbreviated form.

**Appendix VII(A)**

**NOTICE OF PARTNERSHIP OR ASSISTANTSHIP**

As from .....19..... I (we) have admitted Mr. .... # as a partner (assistant) in my (our) Firm. \*(This Firm will in future be known as ..... and will carry on practice at .....)

Consulting Hours ..... Telephone No. ....

(Signed) ..... #

# qualifications acceptable to the Occupational Therapists Board may be shown in abbreviated form.

\* delete words in brackets if not applicable.

**Appendix VII(B)**

**NOTICE OF PARTNERSHIP OR ASSISTANTSHIP**

As from .....19..... Mr. .... # will carry on practice at ..... as partner/assistant to the undersigned.

Consulting Hours ..... Telephone No. ....

(Signed) ..... #

# qualifications acceptable to the Occupational Therapists Board may be shown in abbreviated form.

**Appendix VIII**

**NOTICE OF TERMINATION OF PARTNERSHIP  
OR ASSISTANTSHIP**

As from .....19.....  
Mr. .... # will no  
longer be associated with the undersigned in the practice carried on at .....  
\*(The Firm will in future be known as .....  
.....).

(Signed) ..... #

- # qualifications acceptable to the Occupational Therapists Board may be shown in abbreviated form.
- \* delete words in brackets if not applicable.

**Appendix IX**

**NOTICE OF CHANGE OF TELEPHONE NUMBER**

As from .....19..... the  
telephone number of the practice carried on by the undersigned will be/has been  
changed from .....  
..... to .....

(Signed) ..... #

- # qualifications acceptable to the Occupational Therapists Board may be shown in abbreviated form.

**Appendix X**

**EXAMPLE OF CORRECT USE OF  
CHINESE CHARACTERS**

