

CODE OF PRACTICE OF THE
PHYSIOTHERAPISTS BOARD OF HONG KONG

FOR THE GUIDANCE OF
REGISTERED PHYSIOTHERAPISTS

(N.B. All Registered Physiotherapists 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 Physiotherapists Board.)

FOREWORD

The Physiotherapists Board is established under the Supplementary Medical Professions Ordinance, Cap. 359. The Board's main function is to maintain a register of Physiotherapists 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 physiotherapist should observe the basic ethical principles outlined in Part I; understand the meaning of "Unprofessional Conduct" explained in Part II; and be aware of the convictions and forms of professional misconduct detailed in Part III which may lead to disciplinary proceedings.

4. A registered physiotherapist should at 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 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 Physiotherapists (Registration and Disciplinary Procedure) Regulation.

6. All registered physiotherapists 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 22 to 25 (inclusive); and
- (b) Physiotherapists (Registration and Disciplinary Procedure) Regulation—sections 17 to 43 (inclusive).

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

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 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 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 unprofessional conduct. If that is proved, the Board then assesses the gravity of that misconduct and imposes a penalty accordingly.

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 physiotherapist 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 through undertaking continuing professional development (“CPD”) activities and acquiring the necessary CPD points in accordance with the CPD Manual for registered physiotherapists (which may be revised from time to time by the Board). Any failure to comply with the CPD requirement in the CPD Manual for registered physiotherapists may be deemed as professional misconduct.
5. Recognize 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 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 physiotherapists and members of related professions.
9. Ensure that professional integrity is not influenced by motives of profit.
10. Accept responsibility for reporting illegal activities or unethical conduct to the appropriate authorities.
11. Ensure that no service that requires the skill, knowledge, and judgement of the physiotherapist 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.

PART II
MEANING OF 'UNPROFESSIONAL CONDUCT'

A physiotherapist is guilty of 'Unprofessional conduct' when he, in the pursuit of his profession, does something or omit 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 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 of professional misconduct which may lead to disciplinary proceedings by the Board. The Preliminary Investigation Committee and the Board must proceed as quasi-judicial bodies. This pamphlet is not a complete code of professional ethics, nor can it specify all offences which may lead to disciplinary action. It is simple a guide.

When actions taken by a professional such as a physiotherapist 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 unprofessional conduct. If that is proved, the Board then assesses the gravity of that misconduct and may impose a penalty accordingly. Thereafter there is a route of appeal to the Court of Appeal.

Physiotherapists 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

- 1.1 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.
- 1.2 A particularly serious view is likely to be taken if a physiotherapist 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 a physiotherapist appears to have disregarded his professional responsibility to treat or care for a patient or otherwise to have neglected his professional duties and responsibilities. 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

- 3.1 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.
- 3.2 A physiotherapist 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

A physiotherapist 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 a physiotherapist has improperly or carelessly disclosed information obtained in confidence from or about a patient in the process of clinical investigation or treatment.

6. Professional Communication and Information Dissemination

6.1 Principles for Good Communication and Accessible Information

- 6.1.1 Good communication between physiotherapists and clients¹, and between physiotherapists, is fundamental to the provision of quality service care.
- 6.1.2 A key aspect of good communication in professional practice is to provide appropriate and adequate information to clients and to enable those who need such information to have ready access to it. Clients and the public need such information to make an informed choice of physiotherapists and to make the best use of physiotherapy services offered. Physiotherapists also need information of the relevant practice of their professional colleagues so that they may advise clients and refer them, where appropriate, for further investigations and/or treatment in their best interest.

¹ *Clients refer to any users of physiotherapy services.*

6.1.3 Persons seeking service for themselves or their families can be vulnerable to persuasive influence, and clients and the public are entitled to protection from misleading advertisements. Promotion of physiotherapy services should not undermine the public's trust in the profession.

6.2 Rules of Good Communication and Information Dissemination

6.2.1 Any information provided by a physiotherapist to the public or his clients must be—

- (a) accurate;
- (b) factual;
- (c) objectively verifiable; and
- (d) presented in a balanced manner (when referring to the efficacy of a particular intervention², both the advantages and disadvantages should be set out).

6.2.2 Such information must **not**—

- (a) be exaggerated or misleading;
- (b) be comparative with other physiotherapists;
- (c) claim undue superiority over other physiotherapists;
- (d) aim to solicit or canvass for clients;
- (e) be laudatory;
- (f) be sensational or unduly persuasive;
- (g) arouse unnecessary concern or distress;
- (h) generate unrealistic expectations; or
- (i) disparage other physiotherapists (fair comments excepted).

6.2.3 Practice promotion

6.2.3.1 Practice promotion means publicity for promoting the professional services of a physiotherapist, his physiotherapy practice or his group, which includes any means by which a physiotherapist or his physiotherapy practice is publicized, in Hong Kong or elsewhere, by himself or anybody acting on his behalf or with his forbearance (including the failure to take adequate steps to prevent such publicity in circumstances which would call for caution), which objectively speaking constitutes promotion of his professional services, irrespective of whether he actually benefits from such publicity.

² *Intervention refers to a package of services provided to the patients, including assessment, physical diagnosis, case management, treatment planning and educational activities..*

- 6.2.3.2 Practice promotion excludes communication with registered professionals including medical practitioners, dentists, Chinese medicine practitioners, chiropractors, nurses, midwives, pharmacists, medical laboratory technologists, radiographers, physiotherapists, occupational therapists, optometrists and other healthcare professionals.
- 6.2.3.3 Practice promotion by individual physiotherapists, or by anybody acting on their behalf or with their forbearance, to people who are not their clients must comply with section 6.3.

6.3 Dissemination of Service Information to the Public

A physiotherapist, whether in private or public service, may provide information about his professional services to the public only in the ways set out below.

6.3.1 Signboards

- 6.3.1.1 Signboards include any signs and notices exhibited by a physiotherapist to identify his practice to the public.
- 6.3.1.2 Physiotherapists in group practice, i.e., physiotherapists practising in the same premises under the same business entity or organization, may exhibit either their own individual signboards or a shared signboard. The size limit must not exceed 2m² (for individual signboard) and 3m² (for shared signboard). A physiotherapist is permitted to display—
 - (a) up to 2 signboards on or next to the door for immediate access to his clinic; and
 - (b) (i) for a ground floor clinic: one signboard on building exterior below first floor level; or
 - (ii) for a clinic on other levels: one signboard on building exterior at the floor level of the clinic, and one signboard each at up to 2 building entrances.
- 6.3.1.3 A signboard may carry only the following information—
 - (a) name of the physiotherapist in Chinese and English;
 - (b) the term “Registered Physiotherapist (註冊物理治療師)”;
 - (c) name and logo of the physiotherapy practice (if applicable);
 - (d) qualifications recognized by the Board in the approved English and/or Chinese forms;

- (e) consultation hours;
- (f) contact telephone number(s)/e-mail address;
- (g) practice website; and
- (h) address.

6.3.1.4 A physiotherapist should not allow his name to appear on any signboard which carries merchandise or service promotion. He should not allow the placement of his signboard in a way which gives the appearance that he is associated with other signboards which do not comply with section 6.3.1.

6.3.1.5 The particulars of a physiotherapist may be entered on the building directory boards maintained by the building management. An entry may contain the same information which may appear on signboards. Each entry must conform to the standard size for every other entry on the directory board.

6.3.2 Stationery

6.3.2.1 Stationery (visiting cards, letterheads, envelopes, prescription slips, notices, etc.) may only contain those particulars which may appear on signboards.

6.3.3 Commencement/Altered Conditions of Practice announcements

6.3.3.1 Announcement of commencement of practice or altered conditions of practice (e.g. change of address, change of partnership) are permissible only in newspapers.

6.3.3.2 All announcements can only be published within two weeks before and after the commencement/change taking place AND must comply with sections 6.2.1 and 6.2.2.

6.3.3.3 The size of the announcement must not exceed 300cm² and the announcement may contain only the information specified in section 6.3.1.3 together with the date of the commencement/change. Photographs are not allowed. Samples of permitted announcements are given in Appendix II.

6.3.4 Telephone directories published by telephone companies

6.3.4.1 Entries in telephone directories published by telephone companies in respect of subscribers to their telephone services may be listed under the appropriate descriptive heading.

6.3.4.2 Telephone directory entries may only carry the information permitted under section 6.3.1.3.

6.3.5 Practice websites

6.3.5.1 A physiotherapist may publish his professional service information in either his practice website or the website of a physiotherapy practice group.

6.3.5.2 The website may carry only the following—

- (a) information which is permitted on signboard under section 6.3.1.3; and
- (b) information on physiotherapy and related service provided under a physiotherapist's practice or by a physiotherapy practice group.

The information provided must comply with sections 6.2.1 and 6.2.2.

6.3.6 Newspapers, magazines, journals and periodicals

6.3.6.1 A physiotherapist may publish his service information in bona fide newspapers, magazines, journals and periodicals for the purpose of enabling the public to make an informed choice of physiotherapy services and physiotherapist.

6.3.6.2 A publication published for the predominant purpose of promotion of products or services is not regarded as a bona fide newspaper, magazine, journal or periodical for this purpose.

6.3.6.3 A physiotherapist who publishes his service information in these publications must ensure that—

- (a) the published information includes only the information which is permitted under sections 6.3.1.3 and 6.3.5.2(b);
- (b) his professional capacity is not made use of to advertise health-related products/services and reasonable steps are taken to prevent the publication of his service information in a manner which may reasonably be regarded as suggesting his endorsement of health-related products/services, such as publication in close proximity to advertisements for health-related products/services;
- (c) the published information does not exceed the size limit of 300cm², and not more than one notice is published in the same issue of a publication; and
- (d) a proper record of the published information and the arrangements for its publication is kept for two years.

6.4 Dissemination of Service Information to Patients

A patient of a physiotherapist means someone who has, at any time, consulted that physiotherapist, a partner in his physiotherapy practice, or a physiotherapist in a practice which that physiotherapist has taken over, and whose name appears in the records of the practice.

6.4.1 A physiotherapist may provide information about his service to his patients provided that such information—

- (a) is not disseminated in such a way as to constitute practice promotion to patients not under his care;
- (b) conforms with sections 6.2.1 and 6.2.2;
- (c) does not involve unsolicited canvassing by post, fax, telephone, personal visit or electronic communication, etc.;
- (d) does not abuse the patient's trust or exploit his lack of knowledge;
- (e) does not put the patient under undue pressure; and
- (f) does not offer guarantees to cure particular conditions.

6.4.2 A notice must be exhibited in the waiting area of the clinic to inform patients of their right to ask for a quotation of the fees involved before accepting any intervention.

6.4.3 A physiotherapist may provide information about the acceptance of credit facilities inside his clinic.

6.4.4 Where a physiotherapist recommends a patient to use or buy a medical product/healthcare device, he should explain the indication, benefit, associated risks and side effects of the product/device to the patient.

6.5 Unsolicited Visits or Telephone Calls to Members of Public

Physiotherapists' services may not be promoted by means of unsolicited visits, telephone calls, fax, electronic communications or publications, etc. by physiotherapists or persons acting on their behalf or with their forbearance.

6.6 Physiotherapy Health Education Activities

6.6.1 It is appropriate for a physiotherapist to take part in physiotherapy health education activities, such as lectures and publications. However, he must not exploit such activities for promotion of his practice or to canvass for clients. Any information provided should be objectively verifiable and presented in a balanced manner, without exaggeration of the positive aspects or omission of the significant negative aspects.

- 6.6.2 A physiotherapist should take reasonable steps to ensure that the published or broadcasted materials, either by their contents or the manner they are referred to, do not give the impression that the audience is encouraged to seek consultation or intervention from him or organizations with which he is associated. He should also take reasonable steps to ensure that the materials are not used directly or indirectly for the commercial promotion of any physiotherapy or health related products or services.
- 6.6.3 Information given to the public should be authoritative and appropriate. It should be factual, lucid and expressed in simple terms. Physiotherapists shall not provide any information in such a way which may reasonably be regarded as an attempt to solicit clients to use their physiotherapy services.

7. Depreciation of other physiotherapists

The depreciation of the professional skill, knowledge, services or qualifications of another physiotherapist or other physiotherapists may lead to disciplinary proceedings and should be carefully avoided in relation to a member of any other associated profession.

8. Canvassing

- 8.1 Canvassing for the purpose of obtaining patients, whether direct or indirect, done personally or by servant, agent or others, or association with or employment by persons or organizations which canvass, may lead to disciplinary proceedings. Except in an emergency the Board does not consider it permissible for a registered physiotherapist 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 unless expressly requested to do so by that person or by a parent or guardian of that person. Moreover the Board does not consider it permissible for a registered physiotherapist to canvass by means of the distribution of visiting cards other than as a result of a request for a card by an individual.
- 8.2 Association by physiotherapists with nursing homes, medical benefit societies, insurance companies etc. which advertise clinical and diagnostic services but which allow a free choice of physiotherapist does not violate the ethical code, but physiotherapists 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 physiotherapists may be regarded as canvassing. This does not preclude any physiotherapists or panel of physiotherapists from being employed by an organization, company, school etc. which does not advertise clinical or diagnostic services provided that the names of such physiotherapists are supplied only to bona fide employees, scholars and their families by the management.

9. Misleading and unapproved descriptions and announcements

- 9.1 The Board warns physiotherapists 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 Board, on signboards, stationery, visiting cards, letterheads, envelopes, prescription slips, notices, etc. A list of qualifications acceptable to the Board in the approved Chinese and English abbreviated forms is issued to all registered physiotherapists. Copies may be obtained from the Secretary, Physiotherapists Board of Hong Kong. Any registered physiotherapist 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 unprofessional conduct. In general the Board considers that any act or omission by a registered physiotherapist in connection with his practice which may mislead the public may be held to constitute unprofessional conduct.
- 9.2 Physiotherapists are warned that the use of any professional qualification in Chinese Characters immediately before or after the physiotherapist’s name is not allowed. The only prefix or suffix in Chinese allowed to be used with the physiotherapist’s name is 註冊物理治療師. 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.

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 to/from diagnostic laboratories etc., and may lead to disciplinary action. Recommending or prescribing appliances, aids, drugs, substances, preparations or any other things associated with physiotherapy which are unnecessary for the proper treatment of a patient and in which the physiotherapist has a financial interest may also be regarded as having committed unprofessional conduct.

11. Covering improper delegation of therapeutic duties to unregistered persons

A physiotherapist who improperly delegates to a person who is not a registered physiotherapist duties or functions in connection with the therapeutic treatment of a patient for whom the physiotherapist is responsible or who assists such a person to treat patients as though that

person were a registered physiotherapist, is liable to disciplinary proceedings.

12. Maintenance of professional competence

- 12.1 It must be appreciated by every physiotherapist that it is the duty of every professional person who practises their profession to maintain a proper level of competence throughout their professional life as well as maintaining a proper standard of behaviour.
- 12.2 Preservation of such a level of competence is primarily the responsibility of the individual professional person.

13. Relationships with the medical and other health professions

- 13.1 In broad terms a patient's illness should be assessed or treated on referral from, or while having direct access to, 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.
- 13.2 In emergencies and under certain other circumstances, a physiotherapist may be obliged to undertake some treatment without such previous referral. In such an eventuality the physiotherapist should ensure that such assessment and treatment as is undertaken be strictly limited to what the practitioner of physiotherapy has been trained to do.
- 13.3 Under no circumstances should a physiotherapist hold himself or herself out to be a person who is by training, experience or other skills, capable of independently providing medical treatment.
- 13.4 The above points serve only to illustrate that the physiotherapist 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 a physiotherapist of any of the privileges and opportunities afforded to him or her, or of any dereliction of professional duty or breach of professional ethics, may give rise to a charge of unprofessional conduct.

Physiotherapists 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 any 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 summons 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 (Cap 4).

(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.

**SECTIONS EXTRACTED FROM THE
PHYSIOTHERAPISTS (REGISTRATION AND
DISCIPLINARY PROCEDURE) REGULATION**

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 this Regulation, 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) a Part Ia physiotherapist ordinarily resident in Hong Kong, not being a member of the Board, who is practising as a physiotherapist in the employment of the Government, the Hospital Authority or an institution in respect of which a grant is made directly or indirectly out of the general revenue, nominated by the Hong Kong Physiotherapy Association and appointed by the Chairman of the Board; and
- (c) a Part Ia physiotherapist ordinarily resident in Hong Kong, not being a member of the Board, who is practising as a physiotherapist other than as an employee of the Government, the Hospital Authority or an institution in respect of which a grant is made directly or indirectly out of the general revenue, nominated by the Hong Kong Physiotherapy 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 Committee.

18. Submission of complaint or information

(1) Where—

- (a) a complaint is made to the Secretary in respect of a registered physiotherapist; 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” (申訴) includes information received by the Secretary under subsection (1)(b) and submitted under that subsection.

19. Complaint touching conduct

(1) Where, in a complaint submitted by the Secretary to the Chairman of the Committee under section 18, any allegation is made which in the opinion of the Chairman of the Committee gives rise to a question whether a registered physiotherapist 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 subsection (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 ground for his belief in the truth of the facts.

20. Reference of complaint

(1) On receiving a complaint submitted under section 18, the Chairman of the Committee shall fix a date for a meeting of the Committee to consider the complaint for the purpose of determining whether it should be referred to the Board for inquiry.

(2) Where a complaint is to be considered by the Committee for the purposes described in subsection (1) the Secretary shall—

- (a) notify the respondent of the receipt of the complaint;
- (b) inform him of the substance thereof;
- (c) forward to him a copy of any statutory declaration furnished under section 19(1);
- (d) inform him of the date fixed for the meeting of the Committee to consider the complaint; and
- (e) 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 Committee

(1) The Secretary shall, at the meeting at which a 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 document or matter put before it under subsection (1) and, subject to subsection (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 subsection (2), the Committee may cause to be made such further investigation and may obtain such additional advice or assistance as it considers necessary.

22. Determination of Committee that no inquiry be held

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.

23. Determination of Committee that inquiry be held

(1) 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 held.

(2) Where a matter is referred to the Board under subsection (1), 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) a notice of inquiry which shall be in accordance with Form 4 in Schedule 2; and
- (b) a copy of this Regulation.

(3) 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 to be held.

(4) 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.

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

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

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 the complainant, if any.

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 inquiry.

26. Documents to be available to each party

The Secretary on the request of the respondent or of any 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 the complainant, if any.

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. (L.N. 89 of 2004)

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 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 section 23(5) 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 or allegation 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 subsections (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 subsection (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 subsection (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 any 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 subsection (1) shall be served by registered post addressed to the respondent at his address last known to the Secretary, 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 section 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 section 35(a) or 37, it shall—

- (a) if the respondent is a registered person, subject to section 41, make an order; and
- (b) if the respondent is an applicant for registration, subject to section 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 section 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 subsection (1) shall be served by registered post addressed to the respondent at his address last known to the Secretary, 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 section 38, the Board shall, subject to section 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 reject 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 proposes to make 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 subsection (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 refuse to admit the evidence of any deponent to a document who is not present for, or who refuses 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 see fit, 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 a determination of the Board declared under subsection (1) 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.

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

1. Failure to adhere to the Code of Ethics adopted by the Hong Kong Physiotherapy Association.
2. 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.
3. Failure to recognize the extent and limitation of one's own professional expertise by attempting to carry out procedures of which the physiotherapist does not have the necessary knowledge and skill.
4. When the patient's needs are beyond the scope of the physiotherapist's expertise, the physiotherapist fails to inform the patient and fails to assist the patient in identifying a suitably qualified person to provide the necessary service.
5. Continuation of physiotherapy services beyond the point of possible benefit or by providing services more frequently than necessary for maximum therapeutic effect.
6. Failure to exercise independent and sound judgement upon receiving a referral which specifies therapeutic treatment for conditions or symptoms in which physiotherapy is contraindicated, and failure to initiate consultation with the referring source.
7. Improper delegation or supervision of therapeutic treatment which requires the unique skill, knowledge and judgement of a physiotherapist to a less qualified person.

(SAMPLE 1)
COMMENCEMENT OF PRACTICE

(Name of the physiotherapist)

.....

*.....

wishes to announce
the commencement of his practice
as from

.....(date/day)

at

.....(address)

Tel:Fax:Pager:

Mobile Phone:E-mail Address:

Consultation Hours:

*Qualifications approved by the Physiotherapists Board may be shown.

(SAMPLE 2)
REMOVAL NOTICE

(Name of the physiotherapist)

.....

*.....

wishes to announce
the relocation of his practice
as from

.....(date/day)

at

.....(address)

Tel:Fax:Pager:

Mobile Phone:E-mail Address:

Consultation Hours:

*Qualifications approved by the Physiotherapists Board may be shown.

