

香港職業治療師管理委員會

OCCUPATIONAL THERAPISTS BOARD
HONG KONG

專業守則

CODE OF PRACTICE

二零二三年七月修訂

Revised in July 2023

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CODE OF PRACTICE OF THE
OCCUPATIONAL THERAPISTS BOARD
HONG KONG

FOR THE GUIDANCE OF
REGISTERED OCCUPATIONAL THERAPISTS

(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 Allied Health 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 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 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 Allied Health Professions Ordinance, Cap. 359 and subsidiary legislation, and, in particular with: —

- (a) Allied Health 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 charge 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 through undertaking continuing professional development (“CPD”) activities and acquiring the necessary CPD points in accordance with the Manual for CPD Scheme for registered occupational therapists (which may be revised from time to time by the Board). Any failure to comply with the CPD requirement in the Manual for CPD Scheme for registered occupational therapists may be deemed as professional misconduct.
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

- 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 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

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 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. Professional communication and information dissemination

6.1 Principles for good communication and accessible information

6.1.1 Good communication between occupational therapists and clients* and between occupational therapists is fundamental to the provision of quality occupational therapy service.

** Clients refer to any recipients who will benefit from occupational therapy services.*

6.1.2 A key aspect of good communication in professional practice is to provide appropriate information to users of an occupational therapist's service and to enable those who need such information to have ready access to it. Clients* need such information in order to make an informed choice of occupational therapists and to make the best use of the services the occupational therapist offers. Occupational therapists, on their part, need information about the services of their professional colleagues, in particular information about specialist services so that they may advise clients* and refer them, where appropriate, for further investigations and / or treatment.

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

6.2 Rules of good communication and information dissemination

- 6.2.1 Any information provided by an occupational therapist 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 particular treatment, 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 occupational therapists;
- (c) claim undue superiority over other occupational therapists;
- (d) aim to solicit or canvass for clients*;
- (e) be laudatory;
- (f) be sensational;
- (g) arouse unnecessary concern or distress;
- (h) generate unrealistic expectations; or
- (i) disparage other occupational therapists (fair comments excepted).

- 6.2.3 Practice promotion

6.2.3.1 Practice promotion means publicity for promoting the professional services of an occupational therapist, his occupational therapy practice or his group, and includes any means by which an occupational therapist, his occupational therapy practice or his group 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.

6.2.3.2 Practice promotion excludes communication with relevant health care professionals.

6.2.3.3 Practice promotion by individual occupational therapists, or by anybody acting on their behalf or with their forbearance, to members of the public (excluding patients) must comply with section 6.3.

6.3 *Dissemination of service information to the public*

6.3.1 An occupational therapist, whether in private or public service, may provide information about his professional services to the public only in the ways set out in section 6.3 and should follow the general principles in sections 6.2.1 and 6.2.2. Occupational therapy practice group referred to in this section means a group in which all occupational therapists practising their profession are governed by a genuine management structure.

6.3.2 An occupational therapist should ensure that the publication of announcements / dissemination of service information in newspapers, magazines, journals and periodicals must not be made in any manner which may reasonably be regarded as having the effect of diminishing public confidence in the profession or bringing the profession into disrepute. A publication published for the predominant purpose of promotion of products or services is not regarded as an acceptable newspaper, magazine, journal or periodical for the purpose of section 6.3.

6.3.3 Signboards

6.3.3.1 Signboards include any signs and notices exhibited by an occupational therapist to identify his practice to the public.

6.3.3.2 Occupational therapists in group practice may exhibit either their own individual signboards or a shared signboard. Both individual and shared signboards must comply with the requirements set out in Appendix II.

6.3.3.3 A signboard may carry only the following information —

- (a) name of an occupational therapist in Chinese and English;
- (b) the term “Registered Occupational Therapist” (註冊職業治療師) or “Reg. OT (HK)”;
- (c) name and logo of the occupational therapy practice;
- (d) quotable qualifications approved by the Board in the approved Chinese and English abbreviated forms;

- (e) consultation hours at the premises in which an occupational therapist practises his profession;
- (f) telephone number(s), fax number(s) and website of the occupational therapist's practice; and
- (g) indication of the location of the premises in the building in which an occupational therapist practises his profession.

6.3.3.4 A service information notice may only contain the information permitted under section 6.3.3.3 and the following information —

- (a) language(s) / dialect(s) spoken;
- (b) occupational therapy services provided by the occupational therapist and range of fees which truly reflect his normal charges; and
- (c) availability of emergency service and emergency contact telephone number.

6.3.3.5 An occupational therapist 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.

6.3.4 Stationery

6.3.4.1 Stationery (including business cards, letterheads, envelopes and notices) may only contain particulars which may appear on signboards together with details of the address of the occupational therapist's practice, pager numbers and e-mail address.

6.3.4.2 If an occupational therapist wishes to display the honours and awards granted to him other than those by the Hong Kong Special Administrative Region Government or by the Hong Kong Government before 1 July 1997 he must seek prior approval from the Board.

6.3.5 Commencement / Change of address / Reorganization announcements

6.3.5.1 Announcement of commencement of practice or altered conditions of practice (including change of address and change of partnership) are permissible in acceptable newspapers, magazines, journals, periodicals, pamphlets, leaflets and electronic media.

- 6.3.5.2 All announcements can only be published within four weeks before and after the commencement / change of address / reorganization takes place.
- 6.3.5.3 The size of the announcement must not exceed 300cm² and the announcement may contain only the information specified in section 6.3.4.1 together with the date of the commencement / change of address / reorganization. Photographs are not allowed. Samples of announcements on commencement of practice and removal notice are given in Appendix III.
- 6.3.6 Telephone directories published by telephone companies
 - 6.3.6.1 Entries in telephone directories published by telephone companies in respect of subscribers to their telephone services may be listed under the appropriate descriptive heading.
 - 6.3.6.2 All entries should be of uniform size and format, and particular entries should not be accentuated by bordering, highlighting or otherwise.
 - 6.3.6.3 Telephone directory entries may only carry the information permitted under section 6.3.4.1.
- 6.3.7 Practice websites
 - 6.3.7.1 An occupational therapist may publish his professional service information in his practice website and / or the website of a bona fide occupational therapy practice group.
 - 6.3.7.2 The website may carry only the following —
 - (a) information which is permitted on service information notice under section 6.3.3.4; and
 - (b) information in occupational therapy and related service provided under an occupational therapist's practice or by an occupational therapy practice group.
- 6.3.8 Newspapers, magazines, journals and periodicals
 - 6.3.8.1 An occupational therapist may publish his service information in acceptable newspapers, magazines, journals and periodicals for the purpose of enabling the public to make an informed choice of occupational therapists.

- 6.3.8.2 An occupational therapist who publishes his service information in these publications must ensure that —
- (a) the published information includes only the information which is permitted in service information notices set out in section 6.3.3.4;
 - (b) he has taken all reasonable steps to prevent the publication of his service information in a manner which may reasonably be regarded as suggesting his endorsement of other occupational therapy or health related products / services, such as publication in close proximity to advertisements for those 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 an occupational therapist means someone who has, at any time, consulted that occupational therapist, a partner in his occupational therapy practice group, or an occupational therapist in a practice which that occupational therapist has taken over, and whose name appears in the records of his practice.

- 6.4.1 An occupational therapist 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 intrusive visits, telephone calls, fax or electronic communications by himself or by people acting on his behalf;
 - (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 Patients should be informed of their right to ask for a quotation of the fees involved before treatment.
- 6.4.3 An occupational therapist may provide information about the acceptance of credit facilities inside the premises in which he practises his profession.

6.5 *Unsolicited visits or telephone calls*

Occupational therapists' services shall not be promoted by means of unsolicited visits, telephone calls, fax, electronic communications or publications by occupational therapists or persons acting on their behalf or with their forbearance.

6.6 *Occupational therapy education activities*

6.6.1 It is appropriate for an occupational therapist to take part in occupational therapy 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 An occupational therapist 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 treatment 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 occupational therapy or health related products or services.

6.6.3 Information given to the public should be authoritative, appropriate, factual, lucid and expressed in simple terms. Information should not be presented in such a way that it furthers the professional interests of the occupational therapists concerned, or attracts clients* to their care.

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*

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 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.

- 8.2 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

- 9.1 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 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.
- 9.2 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. 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 IV.

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

- 11.1 All Part II / Part III registered occupational therapists should work under a full-time Part I registered occupational therapist.
- 11.2 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

- 13.1 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.)

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

**REGULATIONS EXTRACTED FROM THE
OCCUPATIONAL THERAPISTS (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 it under subregulation (1) and, subject to subregulation (3), shall determine either —
 - (a) that no inquiry shall be held; or
 - (b) that the complaint shall in whole or in part be referred to the Board for inquiry.
- (3) Before coming to a determination under subregulation (2), the Committee may cause to be made such further investigations and may obtain such additional advice or assistance as it considers necessary.

22. Determination of Committee that no inquiry be held

- (1) If the Committee determines that no inquiry shall be held, it shall direct that the complaint be dismissed and the Secretary shall inform the respondent and the complainant, if any, accordingly.
- (2) If the Committee determines that an inquiry shall be held, it shall refer the case to the Board and the Chairman of the Committee shall notify the Chairman of the Board of the matters into which inquiry is to be made.

23. Determination of Committee that inquiry be held

- (1) Where a matter is referred to the Board under regulation 22(2), the Chairman of the Board shall fix a date for holding an inquiry and the Secretary shall, within 1 month of the determination of the Committee to refer the complaint to the Board, serve on the respondent a notice of inquiry which shall be in accordance with Form 4 in Schedule 2 together with a copy of these regulations.
- (2) A notice of inquiry shall —
 - (a) in a case where the complaint is that the respondent has been guilty of misconduct, state in the form of a charge, which shall be formulated by the Secretary, the matters into which inquiry is to be held;

- (b) in any other case, state the allegation contained in the complaint; and
 - (c) specify the date, time and place at which the inquiry is proposed to be held.
- (3) An inquiry shall not be held until 28 days after the date of service of the notice of inquiry unless the respondent consents in writing to holding it earlier.
 - (4) Service of a notice of inquiry on the respondent shall be by registered post addressed to him at his registered address or at his address last known to the Secretary if different.
 - (5) Within the time stipulated for service of the notice of inquiry, the Secretary shall send a copy of the notice of inquiry to any complainant.

24. Adjournment of inquiry

- (1) The Chairman of the Board may, at any time, adjourn any inquiry to such date as he thinks fit.
- (2) Notice of 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 thereto and, if the Secretary or any party replies to that objection, the respondent, or his counsel or solicitor, shall be permitted to answer such reply.
- (2) If such objection is upheld by the Board the charge to which such objection relates shall be considered only subject to such objection.

34. Order of procedure before Board

- (1) After the reading of the notice of inquiry the order of procedure set out in 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.

41. Opportunity for mitigation

- (1) At any meeting of the Board at which the Board makes in respect of a respondent an order or a decision to decline his application for registration, before the order or decision is made, an opportunity shall be given to the respondent or his counsel or solicitor to make a statement in mitigation and to adduce evidence as to the circumstances leading to the commission of the offence or the conduct complained of and as to the character and antecedents of the respondent.
- (2) At any meeting referred to in subregulation (1), before the order or decision of the Board is made —
 - (a) the Secretary or any other person presenting the case against the respondent may, if the respondent has been the subject of a previous order, produce to the Board the records of the meeting at which that order was made; and
 - (b) the respondent, in person or by his counsel or solicitor, may make a statement by way of mitigation and adduce evidence as to the circumstances leading to the previous order.

42. Evidence

- (1) Evidence may be taken by the Board by oral statement on oath or by written deposition or statement.
- (2) A summons under section 23(1)(b) of the Ordinance to any person requiring him to attend an inquiry to give evidence or produce any document or other thing in his possession shall be in accordance with Form 5 in Schedule 2.
- (3) Every witness shall be examined by the party producing him and may then be cross-examined by the other party and may be re-examined by the party producing 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.

**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

SIGNBOARDS AND NOTICES

I. Signboards

1. An occupational therapist is permitted to display: —
 - (a) two signboards, either on or beside the door at the immediate entrance to the premises in which he practises his profession (“premises”); and
 - (b) such number of signboards facing the street set out below:
 - (i) (for premises with direct access from pavement) one signboard below first floor level;
 - (ii) (for premises with no direct access from pavement and situated in a building with only one public entrance) one signboard at floor level of the premises, and one signboard adjacent to public entrance of the building;
 - (iii) (for premises with no direct access from pavement and situated in a building with more than one public entrance) one signboard at floor level of the premises, and a signboard adjacent to each public entrance of the building.
2. The size of a signboard is the aggregate area of all surfaces on which service information is displayed, including all borders.
3. The size of individual signboards shall not exceed:
 - (a) for signboard permitted under paragraph 1(a), 1 m²;
 - (b) for signboard permitted under paragraph 1(b), 1 m² (if at ground floor level), 1.5 m² (if at mezzanine or first floor level), or 2 m² (if above first floor).
4. The size of shared signboards shall not exceed:
 - (a) (for premises with 2 occupational therapists) 2 m²;
 - (b) (for premises with 3 or more occupational therapists) 3 m².
5. Signboards should not be ornate. Illumination is allowed only to the extent required to enable the contents to be read. Blinking lights are not allowed.

II. Building directory boards

The particulars of an occupational therapist may be entered on each building directory board maintained by the building management. An entry on the directory board may contain the same information which may appear on signboards and must conform to the standard size for every other entry on the directory board.

III. Directional notices

Directional notices may be exhibited inside the building in which the premises are situated. Each notice, including all borders, must not exceed 0.1m². A directional notice may contain only the name of the occupational therapist, the permitted title and the room number of the premises.

IV. Notice of consultation hours

An occupational therapist is permitted to exhibit one separate notice of consultation hours not exceeding 0.2m² including borders, provided that this information is not already shown on other signboards or notices. The notice may contain his name and consultation hours. The occupational therapist may decide the location of the notice.

V. Services information notices

An occupational therapist may display at the exterior of the premises in which he practises his profession a service information notice. The service information notice must comply with the requirements below:

1. Location of Notice

At the exterior of the premises on or immediately next to the entrance for patients

2. Number of Notice

Maximum number of notices allowed is 2

3. Size of Notice

A3 size

4. Format of Notice

Single colour print

Uniform font size

Plain text only without graphic illustrations

The notice should not be ornate

(SAMPLE 1)
COMMENCEMENT OF PRACTICE

* -----

wishes to announce
the commencement of his practice
as from

----- (date/day) -----

at

----- (address) -----

Tel.: ----- Fax: ----- Pager: -----

Mobile Phone: ----- E-mail Address: -----

Consultation Hours: -----

*the qualifications in English approved by the Occupational Therapists Board may be shown

(SAMPLE 2)
REMOVAL NOTICE

*

wishes to announce
the relocation of his practice
as from

----- (date/day) -----

at

----- (address) -----

Tel.: ----- Fax: ----- Pager: -----

Mobile Phone: ----- E-mail Address: -----

Consultation Hours: -----

*the qualifications in English approved by the Occupational Therapists Board may be shown

EXAMPLES OF CORRECT USE OF
CHINESE CHARACTERS

註冊 職業 治療 師 <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
