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MONDAY 27TH JUNE, 2022

THE OFFICIAL GAZETTE 27TH JUNE, 2022
LEGAL SUPPLEMENT — B

GUYANA No. 15 of 2022

REGULATIONS

Made Under

THE MEDICAL PRACTITIONERS ACT

(Cap. 32:02)

IN EXERCISE OF THE POWERS CONFERRED UPON ME BY SECTION 23 OF THE MEDICAL PRACTITIONERS ACT, I MAKE THE FOLLOWING REGULATIONS:-

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Amendment of regulation 34 of the Principal Regulations.
3. Amendment of regulations 48 to 56 of the Principal Regulations.
4. Transitional provisions.

Citation. Cap. 32:02 (Subsidiary legislation)

1. These Regulations, which amend the Medical Practitioners (Code of Conduct and Standards of Practice) Regulations, may be cited as the Medical Practitioners (Code of Conduct and Standards of Practice) (Amendment) Regulations 2022.

Amendment of regulation 34 of the Principal Regulations.

2. Regulation 34 of the Principal Regulations is amended as follows –

(a) in paragraph (1), by the substitution for the words "the Medical Council, the seating on a hearing procedure and the Disciplinary Committee" of the words "the Medical Council and the seating on a hearing procedure"; and

(b) in paragraph (2), by the substitution for the words "before the Disciplinary Committee" of the words "before it".

Amendment of regulations 48 to 56 of the Principal Regulations.

3. Regulations 48, 49, 50, 51, 52, 53, 54, 55, and 56 of the Principal Regulations are amended by the substitution for the regulations, of the following –

"Disciplinary process against medical practitioner.

48. (1) Where it appears or is represented to the Medical Council, by complaint or otherwise, that a medical practitioner is –

(a) convicted of an offence outside Guyana which if committed in Guyana would be punishable on indictment;

(b) convicted of such an offence in Guyana; or

(c) guilty of professional misconduct or malpractice,

the Medical Council shall first examine the complaint, other information or representation in its possession to determine whether further inquiry is necessary to establish

the complaint, information or representation or whether it may be summarily dismissed.

(2) If the Medical Council determines that further inquiry is necessary, it shall inform the medical practitioner by letter of the nature and content of the allegation made against him or of the extent of the information or representation in its possession and call upon him to provide in writing within twenty-eight days of the date of its letter any explanation or representation he may wish to make in respect of the allegation, information or representation.

(3) On consideration of the explanation or representation received from the medical practitioner if the Medical Council is of the opinion that the allegation, information or representation cannot be established, it shall take no further inquiry and shall as soon as practicable inform the medical practitioner that it does not find the allegation, information or representation established.

(4) The Medical Council shall commence disciplinary process against the medical practitioner –

(a) if on consideration of the explanation or representation received from the medical practitioner it is of the opinion that further inquiry is necessary –

(i) for the purpose of determining whether the allegation, information or representation is established; or

(ii) into the conduct of the medical practitioner for the purpose of determining whether he is guilty of professional misconduct or malpractice; or

(b) if there has been no response from the medical practitioner to the Medical Council's letter requesting an explanation or representation he may wish to make in respect of the allegation, information or representation within the time specified in paragraph (2).

(5) If the Medical Council forms the opinion that there is sufficient reason in the public interest or to secure public safety to suspend the registration of a medical practitioner before or during the course of an ongoing investigation or against whom it intends to initiate the disciplinary process, it shall have the power to suspend the registration of that medical practitioner until such time as it believes that it is no longer necessary to suspend that registration or until such time as it applies final disciplinary measures.

(6) Where the Medical Council suspends the registration of a medical practitioner before the determination of the disciplinary process, it shall take steps as are necessary to expedite the completion of the disciplinary process.

Further information required during disciplinary process.

49. (1) The Medical Council may at any time during the disciplinary process request further information from the medical practitioner who is the subject of that process –

(a) to be submitted in writing;

(b) through the supplying of books, documents, patient records or charts or any other document; or

(c) through interviews with the Medical Council.

(2) The duty to supply the information required by the Medical Council by the medical practitioner shall be compellable at law.

(3) Without prejudice to the Medical Council's power to take steps to compel a medical practitioner subject to the disciplinary process to supply information required by it, the failure of that medical practitioner to supply information required by the Medical Council shall constitute a ground of professional misconduct for which fresh disciplinary proceedings may be brought.

(4) If the Medical Council requires information it deems necessary to establish the facts relevant to the disciplinary proceedings from any other person or institution, whether the person or institution is from the private or public sector, it shall have the power to –

(a) summon the persons before it for one or more interviews; and

(b) call for the production of books, documents, patient records and charts and any other information.

(5) The duty to supply the information required by the Medical Council by the person or institution shall be compellable at law.

Professional misconduct.

50. If the conduct alleged against a medical practitioner appears to amount to professional misconduct, the Medical Council shall apply its knowledge and experience of standards of professional conduct expected of a medical practitioner in Guyana, to determine whether the conduct of the medical practitioner, by commission or omission, fell short of the standards of conduct expected of medical practitioners in Guyana and shall, if it finds the medical practitioner guilty of professional misconduct, depending on the seriousness of the professional misconduct, apply any of the measures specified in section 17(3) of the Act.

Standards of conduct may be published.

51. The Medical Council may from time to time publish on its website or in such other place as it may see fit a list of standards of conduct which medical practitioners are expected to meet, provided that the failure to publish that list or not to specify any item of conduct as constituting a ground of professional misconduct shall not be a barrier to a finding of professional misconduct by the Medical Council against a medical practitioner.

Malpractice.

52. (1) If the conduct alleged against a medical practitioner appears to constitute malpractice, the Medical Council shall use its own knowledge and experience to –

(a) assess the appropriate standard of professional care required of a reasonably competent medical practitioner in the circumstances in which the medical practitioner was placed;

(b) determine whether the medical practitioner met or fell short of the standard expected of a reasonably competent medical practitioner in the circumstances in which the medical practitioner was placed; and

(c) determine the seriousness of the malpractice if the medical practitioner did not meet the standard expected of a reasonably competent medical practitioner placed in the circumstances in which he was placed.

(2) Where the Medical Council, acting in accordance with paragraph (1), has determined that the medical practitioner did not meet the standard of care expected of him it shall as soon as is reasonably practicable, inform the medical practitioner in writing of the reasons for its findings and the medical practitioner shall within fourteen days of a date specified by the Medical Council in its letter with its reasons, respond in writing.

(3) If the Medical Council chooses, it may in the alternative to applying its own knowledge and experience or in addition to it, commission a report from a specialist medical practitioner whose practice is within or outside of Guyana, but who is familiar with the standard of care expected from a medical practitioner in Guyana, to

determine the standard of care expected of a medical practitioner in the circumstances of the medical practitioner subject to disciplinary proceedings and to offer an opinion as to whether the medical practitioner met or fell short of that standard of care.

(4) When the Medical Council commissions a report from a specialist medical practitioner in proceedings for malpractice, it shall supply the medical practitioner subject to disciplinary proceedings with a copy of that report as soon as is reasonably practicable and the medical practitioner shall within fourteen days of a date specified by the Medical Council provide his response in writing.

(5) The Medical Council may use the contents of a specialist medical practitioner's report to provide expert opinion guidance and the Medical Council is free to reject all or part of the report or to accept all or part of the report, provided that where it accepts part only of the report, it shall inform the medical practitioner subject to the disciplinary process of the part it accepts and the part it rejects, giving reasons for the acceptance or rejection.

(6) Whether the Medical Council applies its own knowledge and experience under paragraph (1) or commissions a report from a specialist medical practitioner under paragraph (3), the response of the medical practitioner may either –

(a) constitute his own reasons for the making of different findings;

(b) be a report commissioned by him from a specialist medical practitioner of his choice

which constitute reasons for the making of different findings;

(c) constitute legal reasons why the findings put forward by the Medical Council should not be relied upon; or

(d) be a combination of reasons provided for in the preceding paragraphs.

(7) When the Medical Council commissions a report from a specialist medical practitioner it shall, notwithstanding the fact that it may be guided by the report, act in accordance with the provisions of paragraph (1)(a), (b) and (c) and determine the issues in accordance with its own deliberate judgment.

(8) If the Medical Council forms the opinion, after considering the response of the medical practitioner, that the medical practitioner has failed to meet the standard of care required of a reasonably competent medical practitioner in the circumstances in which that medical practitioner was placed, it shall find the medical practitioner guilty of malpractice and, depending on the seriousness of the malpractice, apply any of the measures specified in section 17(3) of the Act.

Steps to meet minimum standard of care.

53. The Medical Council may from time to time publish on its website or in such other place as it may see fit a list setting out the steps required by a medical practitioner to meet the minimum standard of care in various medical and surgical procedures, which standard every medical practitioner performing that procedure is expected to meet, provided that the failure to publish that

list or to specify any step as constituting a ground of good practice shall not be a barrier to a finding of malpractice by the Medical Council against a medical practitioner.

Disciplinary process initiated on allegation of conviction.

54. Where the disciplinary process is initiated on an allegation, representation or other information that a medical practitioner has been convicted in the circumstances set out in regulation 48(1)(a) or (b), the Medical Council shall apply the provisions of regulations 48 and 49 to determine the matter and shall, on a finding that the allegation, representation or other information is established, apply any of the measures specified in section 17(3) of the Act.

Power to extend, abridge or abrogate time.

55. The Medical Council shall have the power to extend, abridge or abrogate any of the time periods referred to in this Part as it deems necessary and the failure to abide by any of the times fixed in these regulations on the part of the Medical Council in any matter shall be considered an irregularity and not a nullity.

Proceedings unaffected provided natural justice applied.

56. No proceedings shall be quashed or affected in an incurable manner on the failure by the Medical Council to adhere to any of these regulations or part of a regulation, provided that the principles of natural justice are sufficiently applied by the Medical Council in the disciplinary process.".

Transitional provisions.

4. (1) These Regulations shall also apply to all pending –

(a) complaints;

(b) disciplinary proceedings; and

(c) part-heard disciplinary proceedings,

before the Medical Council before the commencement of these Regulations.

(2) Notwithstanding subsection (1), part-heard disciplinary proceedings before the Medical Council before the commencement of these Regulations may continue under the procedure applied under the Principal Regulations before the commencement of these Regulations with such modification to that procedure where necessary as the Council deems fit so as to allow compliance with these Regulations, after hearing the medical practitioner who is the subject of the proceedings on the modification of the procedure.

Made this 27th day of June, 2022.



Dr. the Hon. Frank Christopher Stanislaus Anthony, M.P.
Minister of Health