

No. S 88

PHARMACISTS REGISTRATION ORDER, 2001
(S 21/01)

PHARMACISTS REGISTRATION (DISCIPLINARY) RULES, 2010

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In exercise of the power conferred by section 25 of the Pharmacists Registration Order, 2001, the Minister of Health, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Rules —

Citation and commencement.

1. (1) These Rules may be cited as the Pharmacists Registration (Disciplinary) Rules, 2010.

(2) These Rules shall commence on the 1st. September, 2010.

Interpretation.

2. In these Rules, unless the context otherwise requires, "Board's representative" means the person who represents the Board in accordance with rule 8.

Complaint against pharmacist.

3. (1) The Board shall consider every written complaint against a pharmacist.

(2) The complaint may be a report —

(a) that the pharmacist has been convicted of an offence referred to in sections 17(1)(a) or (b); or

(b) that his name should be removed from the register on a ground specified in sections 17(1)(c), (d), (e) or (f).

Record of court proceedings.

4. (1) Where a pharmacist has been convicted of an offence referred to in sections 17(1)(a) or (b), the Board shall consider the record of proceedings of the court.

(2) The Board may, if it is of the opinion that the name of the pharmacist should be removed from the register, remove his name from the register after he has been given a reasonable opportunity of being heard.

Procedure on receipt of complaint.

5. (1) On receipt of a complaint against a pharmacist, the Registrar shall send the pharmacist a copy thereof and a copy of any statutory declaration furnished, under rule 6.

(2) The pharmacist shall be asked to give any explanation that he may wish to give to the Board.

Statutory declaration.

6. (1) Where a pharmacist is alleged to have been guilty of an improper act or conduct, the Board shall not proceed further under these Rules unless there has been furnished to its satisfaction a statutory declaration made by the complainant.

(2) The statutory declaration shall state —

(a) the name, address and occupation of the complainant;

(b) the grounds of the complaint; and

(c) the evidence of the alleged improper act or conduct.

(3) The Board may waive the requirement to furnish a statutory declaration if the allegation is made by a public officer or the Board's advocate and solicitor.

Board's decision on further proceedings.

7. (1) Where the Board, after considering the complaint, any statutory declaration furnished under rule 6 and any explanation given under rule 5(2), decides that —

(a) no action be taken, the pharmacist concerned shall be informed accordingly by the Registrar;

(b) a warning be given to the pharmacist, the Registrar shall issue a letter in such terms as the Board thinks fit;

(c) the name of the pharmacist be removed from the register under sections 17(1)(c), (d), (e) or (f), the Board may direct that the name be so removed; or

(d) an inquiry be held, the Board shall inquire into the matter under these Rules.

(2) Before the Board directs that a name be removed from the register under sub-rule (1)(c), the Board shall give the pharmacist a reasonable opportunity of being heard.

Board's representative.

8. For the purpose of an inquiry under these Rules, the Board may be represented by an advocate and solicitor, or a public officer.

Notice of inquiry.

9. (1) Where the Board directs that an inquiry be held, the Board's representative shall serve on the pharmacist under inquiry a notice specifying —

(a) the charge preferred against the pharmacist; and

(b) the time, date and place of the inquiry.

(2) An inquiry shall, except with the agreement of the pharmacist, be held not earlier than 28 days after the date of the notice.

(3) The notice shall be in such form as the Board may determine.

(4) The notice shall be served on the pharmacist by registered post addressed to him at his last-known address.

(5) Where there is a complainant, a copy of the complaint shall also be served on the pharmacist.

Postponement of inquiry.

10. (1) The pharmacist under inquiry or the Board's representative may apply for a postponement of the inquiry.

(2) The Board may postpone the inquiry to such later date as it may determine.

Pharmacist may have documents sent to Board.

11. (1) The Board's representative shall, at the request of the pharmacist under inquiry, send to him a copy of every document relating to the matter under inquiry which is in the possession of the Board.

(2) Nothing in sub-rule (1) shall compel the Board's representative to produce copies of any correspondence between the Board and himself.

Access to documents.

12. The pharmacist under inquiry and the Board's representative shall be permitted to have access to information contained in any document at a reasonable time before the document is tendered in evidence at an inquiry.

Inquiry not open to public.

13. (1) An inquiry by the Board under these Rules shall be held in private.

(2) The Board may publish a report of its findings at the end of the hearing.

Evidence at inquiry.

14. (1) The Board may require the pharmacist under inquiry or the Board's representative to produce such documents relating to the matter under inquiry and in his possession as the Board thinks fit.

(2) A person attending the inquiry shall give evidence under oath.

Pharmacist may appear in person or be represented.

15. The pharmacist under inquiry may appear in person or be represented by an advocate and solicitor, a member of any pharmaceutical or professional organisation of which he is a member or by a member of his family.

Conduct of inquiry.

16. (1) If the pharmacist does not appear, the Board may proceed with the inquiry after satisfying itself that a notice of the inquiry was served on him under rule 9(1).

(2) Subject to sub-rule (3), the procedure to be followed at the inquiry shall be as follows —

(a) the charge shall first be read out to the pharmacist;

(b) the pharmacist or his representative may object to the charge;

(c) if any such objection is upheld, no further proceedings shall be taken by the Board on the charge to which the objection relates;

(d) the Board's representative shall present the facts on which the charge is based, and adduce evidence of the facts alleged in the charge;

(e) the pharmacist or his representative may give evidence on the pharmacist's behalf and cross-examine witnesses;

(f) the Board may question the pharmacist and cross-examine witnesses;

(g) at the close of the case, the pharmacist or his representative may address the Board; and

(h) the Board's representative shall make his closing address.

(3) The Board may vary the procedure in sub-rule (2) in any particular case.

(4) During the inquiry, the Board may determine that the charge is groundless, in which case no further proceedings shall be heard.

(5) The Board shall not be bound to act in a formal manner and shall not be bound by the provisions of the Evidence Act (Chapter 108) or by any other written law relating to evidence, but may inform itself on any matter in such manner as it thinks fit.

Findings of Board.

17. (1) At the conclusion of the proceedings under rule 16, the Board shall consider whether all the charges have been proved to its satisfaction.

(2) If the Board determines that any charge has been proved to its satisfaction, the pharmacist or his representative may address the Board in mitigation and adduce evidence of the character of the pharmacist under inquiry.

Postponed judgment.

18. (1) The Board shall consider whether judgment shall be postponed.

(2) Where judgment has been postponed, the hearing shall be adjourned to a date to be determined by the Board.

(3) The notice of the date on which the hearing is to continue shall be given to the Board's representative and the pharmacist under inquiry not less than 4 weeks before that date.

(4) The pharmacist under inquiry shall be asked to submit to the Board, not later than 3 weeks before the hearing, any statement or testimonial regarding his conduct or the name and address of any person to whom reference may be made as to his character.

(5) A copy of the statement or testimonial shall be sent to the complainant.

(6) At the resumed hearing, any other fact may be brought to the attention of the Board if it relates to the matter under inquiry.

(7) The Board's representative shall recall the stage at which the proceedings were adjourned and the Board may —

(a) hear any other submission by the Board's representative or the pharmacist under inquiry; and

(b) receive such further evidence in relation to the case or to the conduct of the pharmacist since the adjournment as it thinks fit.

(8) The Board shall then determine whether it should further postpone its judgment.

Absence of member of Board.

19. The Board may conduct proceedings under these Rules notwithstanding the absence of one or 2 of its members and the validity of those proceedings shall not be challenged on this ground.

Inquiry into conduct of 2 or more pharmacists.

20. The Board may conduct an inquiry into charges against 2 or more pharmacists at the same hearing.

Penalties.

21. (1) At the end of an inquiry under these Rules, the Board shall decide —

(a) whether the alleged improper act or conduct is proved; and

(b) if so, whether the improper act or conduct is such as to render the pharmacist concerned unfit to be a registered pharmacist.

(2) Where the Board decides that the alleged improper act or conduct is proved, it may direct the Registrar to remove the name of the pharmacist from the register or impose either or both of the following penalties –

(a) reprimand the pharmacist; and

(b) restrict the pharmacist in his practice of pharmacy in such manner as the Board thinks fit.

Removal of pharmacist's name from register.

22. (1) Where the Registrar has been directed to remove any name from the register, he shall forthwith send a notice of such removal to the pharmacist at his last-known address.

(2) The Board may publish a report on the inquiry.

(3) The Board may inform the Registrar or any other officer of the university or institution from which the pharmacist received his pharmaceutical degree or qualification of the removal of his name from the register.

Made this 5th. day of Syawal, 1431 Hijriah corresponding to the 14th. day of September, 2010.

PEHIN ORANG KAYA JOHAN PAHLAWAN DATO SERI SETIA
AWANG HAJI ADANAN BIN BEGAWAN PEHIN SIRAJA KHATIB
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Ministry of Health,
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