Pharmacy Board Malaysia
Ministry of Health Malaysia

Guidance on the Code of Ethics for Pharmacists 2018

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Part One: INTRODUCTION

1.0 Preamble

In the pharmacy profession, the health and welfare of the public has always been and will continue to be the foremost concern among pharmacists. For this principle to be consistently placed above all other considerations in the practice of pharmacy, this Code of Ethics for Pharmacists 2018 has embodied the minimum standards of proper conduct and professionalism for guidance of pharmacists. These standards also serve as a reference when the Board considers cases of misconduct in a professional sense.

2.0 Use of Terms

For the purpose of this Code of Ethics -

"Act" means the Registration of Pharmacists Act 1951;

"allied profession" means any profession involved in the provision of healthcare to, or treatment of diseases or conditions of, man or animals;

"annual certificate" means an annual certificate issued under section 16 of the Act;

"the Board" means the Pharmacy Board established under section 3 of the Act;

"the Code" means the Code of Ethics for Pharmacists 2018;

"dangerous drug" has the meaning assigned to it in the Dangerous Drugs Act 1952;

"drug" has the meaning assigned to it in the Sale of Drugs Act, 1952;

"pharmacist" means a registered pharmacist in the Act;

"poison" has the meaning assigned to it in the Poisons Act 1952;

"register" used with reference to a pharmacist means the register under the provisions of the Act applicable to the registration of pharmacists;

"the Regulations" means the Registration of Pharmacists Regulations 2004.

3.0 Statement on Infamous or Disgraceful Conduct in a Professional Sense and Misconduct

For the purpose of Section 17 (1) (c) of the Act, any pharmacist found guilty of any breach of the Code by the Board after due inquiry under the Regulations, shall be deemed to be in the opinion of the Board, guilty of infamous or disgraceful conduct in a professional sense, and shall be liable to such disciplinary action by the Board as the Board deems fit under the provisions of the Act.

Part Two: Disciplinary Jurisdiction and Procedure

1.0 Disciplinary Jurisdiction of the Board

1.1 In Respect of Registered Pharmacists:

Board may initiate disciplinary proceedings against any registered pharmacist under the provisions of subsection 17 (1) (a), (b) and (c) of the Act which read:

"If it comes to the knowledge of the Board that a registered pharmacist-

a. has obtained registration by a fraudulent or incorrect statement; or

b. has been convicted of any offence which, in the opinion of the Board, renders him unfit to be on the register or of any offence under this Act or under any written law in force in Malaysia relating to poisons, dangerous drugs or therapeutic substances; or

c. has been guilty of infamous or disgraceful conduct in a professional sense."

1.2 Definition of Misconduct, Infamous or Disgraceful Conduct in a Professional Sense

Disreputable behaviour, a breach of professional responsibility or requirement identified in the Code could form the basis of a complaint of professional misconduct. The Board or its Committee of Inquiry in considering whether or not action should follow, may take into consideration the circumstances of an individual case and do not regard themselves as being limited to those matters which are mentioned in the code or the guidance only.

2.0 Procedure of Inquiry

The Registration of Pharmacists Regulations 2004 provides the following procedures pertaining to disciplinary inquiry: -

2.1 Complaints Against a Registered Pharmacist

In accordance with Regulation 14;

1. Any person who seeks to make a complaint against or submit an information of a registered pharmacist shall make the complaint or submit the information to the Secretary of the Board, who shall then refer that complaint or information to the Board.

2. Where the Board has received a complaint or information under subregulation (1) and it is satisfied that there may be sufficient grounds for the complaint or information, it shall appoint a Committee of Inquiry to investigate the complaint or information.

2.2 Committee of Inquiry

In accordance with Regulation 15;

1. Every Committee of Inquiry shall comprise of five fully registered pharmacists and each of them having a valid annual certificate.

2. The Board may at any time revoke the appointment of any member of any Committee of Inquiry or may remove any member of any Committee of Inquiry or fill any vacancy in any Committee of Inquiry.

3. The Board shall nominate a member of a Committee of Inquiry to be the Chairman of the Committee of Inquiry.

4. The quorum of a Committee of Inquiry shall be three (3).

5. The Chairman shall preside at all meetings of the Committee of Inquiry.

6. The decision of a Committee of Inquiry shall be by a majority.

2.3 Investigation by the Committee of Inquiry

In Accordance with Regulation 16;

1. Prior to the commencement of the investigations by the Committee of Inquiry, the Secretary of the Board shall forward a notice by registered post to the registered pharmacist or body corporate at his or its last known address, which shall –

    a. state the complaint against or information of the registered pharmacist or body corporate;

    b. require the registered pharmacist or body corporate to provide a written explanation regarding the complaint or information to the Committee of Inquiry within such period as specified in the notice, but such period shall not be less than fourteen days from the date of the notice; and

c. request the registered pharmacist or body corporate to attend and give evidence before the Committee of Inquiry, where required to do so.

2. The Committee of Inquiry shall, after the period as specified in paragraph (1)(b), commence the investigation of the complaint or information and shall give the registered pharmacist or body corporate reasonable opportunity to be heard, and due consideration shall be given to any explanation that may be given by the registered pharmacist or body corporate.

3. The Committee of Inquiry shall upon completion of its investigation of the complaint or information, submit a report together with its recommendation to the Board for its consideration.

2.4 Summary Dismissal of Complaint or Information

In accordance with Regulation 17;

The Committee of Inquiry to which such complaint or information has been forwarded, may recommend to the Board to summarily dismiss any complaint or information if the Committee of Inquiry is satisfied –

a. that the name and address of the complainant or informant is unknown or untraceable;

b. that even if the facts were true, the facts do not constitute a matter provided under subsection 13(7) or 17(1) of the Act; or

c. for reasons which must be recorded, that there is reason to doubt the truth of the complaint or information.

2.5 Inquiry by the Board

In accordance with Regulation 18;

1. Upon receipt of a report from the Committee of Inquiry and on it's recommendation, the Board shall, where it is satisfied that there are grounds for the complaint or information against the registered pharmacist or body corporate –

   a. cause a charge containing the facts of the complaint or information alleged to have been committed by the registered pharmacist or body corporate to be forwarded by registered post to him or it at his or its last known address;

b. request the registered pharmacist or body corporate to attend the inquiry to be convened by the Board in pursuant of subsection 13(7) or 17(1) of the Act; and

c. inform the registered pharmacist or body corporate that an opportunity to be heard may be given to him or it, where –

(i) in the case of the body corporate, it may be heard by a representative appointed in writing or by counsel;

(ii) in the case of any director, officer or other person in the employment of the body corporate, he may be heard either personally or by counsel; or

(iii) in the case of a registered pharmacist, he may be heard either personally or by counsel.

2. Where the registered pharmacist or body corporate, without reasonable excuse, fails to attend the inquiry convened by the Board, the Board may proceed to hear the case notwithstanding the absence of registered pharmacist or body corporate, if the Board is satisfied that provisions; of subregulation (1) have been complied with.

3. The Board may regulate its own procedure in such a manner as it deems fit.

2.6 Appointment and Payment of Legal Adviser

In accordance with Regulation 19;

1. The Board or Committee of Inquiry may appoint a legal adviser to assist the Board or Committee of Inquiry during any inquiry.

2. The Board or Committee of Inquiry may appoint any person who is and has been advocate and solicitor for a period of not less than five years to advise it on –

a. all questions of law ensuing in the course of the inquiry; and

b. the meaning and construction of all documents produced during the inquiry.

3. The legal adviser is entitled to be paid such fees as are from time to time fixed by the Board.

2.7 Members Who Are Disqualified from Any Meeting of the Board Inquiring into Any Disciplinary Matter

In accordance with Regulation 20;

No member of the Board or Committee of Inquiry shall attend or participate in any meeting of the Board or Committee of Inquiry inquiring into any disciplinary matter if –

a. he is the complainant; or

b. he is personally acquainted with any relevant fact.

3.0 Punishments

In accordance with Section 18(A) of the Act,

1. Subsection (1), the Board may, at conclusion of an inquiry under section 13(7) or section 17(1), impose any of the following punishments;

   a. order the name of the registered pharmacist or body corporate to be removed from the register;

   b. order the name of the registered pharmacist or body corporate to be suspended from the register for such period as it may think fit;

   c. order the registered pharmacist or body corporate to be reprimanded.

2. Subsection (2) the Board may also at conclusion of the inquiry mentioned in subsection (1)-

   a. order the registered pharmacist or body corporate to pay costs to the board or complainant where an order under any of the paragraphs in subsection (1) is made;

   b. order the complainant to pay costs to the registered pharmacist or body corporate where no case has been made out against the registered pharmacist or body corporate, and such cost may be recovered as a civil debt.

4.0 Appeal

In accordance with Section 19 of the said Act, any person or body corporate aggrieved by any punishments imposed by the Board under Section 18A, or by any refusal or failure to enter his or its name in the register, or by any refusal to issue to him or to it an annual certificate, may appeal to the Minister whose decision shall be final.

Part Three: **Guidance on the Code of Ethics for Pharmacists 2018**

PRINCIPLE 1 - Make Patients Your First Concern

a. **There is evidence that the pharmacist did not provide safe service to his patients.**

This may apply if there is evidence:

i. That the pharmacist had sold and proposed unregistered medicine to his patient.

ii. That dispensing error (medications/strength) was committed by pharmacist.

iii. That the pharmacist failed to act appropriately after committing a dispensing error.

b. **There is evidence that the pharmacist action or behavior did not protect the interest and well-being of his patients and the public.**

This may apply if there is evidence:

i. That the pharmacist failed to ensure proper labelling of dispensed medicine.

ii. That the pharmacist gave patients the incorrect medication or strength.

iii. That the pharmacist issued medication labels containing incorrect information, or information inconsistent with the original prescription.

c. **There is evidence that the pharmacist did not give enough explanations to patients about their medicines.**

This may apply if there is evidence:

i. That the pharmacist deliberately concealed side effects of the medicines that his patient is taking.

ii. That the pharmacist failed to educate patients or their caregivers about how to use their medicines.

PRINCIPLE 2 - Use Professional Judgement in the Interests of Patients and the Public

a. **There is evidence that the pharmacist acted unlawfully in providing service to his patients.**

This may apply if there is evidence:

i. That the pharmacist failed to record any sale of psychotropic drugs/ controlled items/dangerous drugs/scheduled poisons in accordance to the law requirements.

b. **There is evidence that the pharmacist's decision was made on his personal or business interests.**

This may apply if there is evidence:

i. That the pharmacist possessed medicines belong to the Ministry of Health without valid documents or authorisation.

ii. That the pharmacist substituted a prescribed medicine with a more expensive medicine without consulting the prescriber.

c. **There is evidence that the pharmacist failed to take appropriate steps to prevent the misuse or abuse of medicines by his patients.**

This may apply if there is evidence:

i. That the pharmacist sold drugs with abuse potential such as sleeping pills in excessive quantity to his patients without for a valid prescription.

d. **There is evidence that the pharmacist did not consult or take advice from other healthcare professionals.**

This may apply if there is evidence:

i. That the pharmacist made an adjustment to patient's drug therapy without notifying the prescriber.

PRINCIPLE 3 - Show Respect for Others

a. **There is evidence that the pharmacist failed to treat people fairly.**

This may apply if there is evidence:

i. That the pharmacist was being partial and selective in serving the people.

ii. That the pharmacist refused to sell or supply certain product to certain people.

iii. That the pharmacist acted in discriminatory towards belief, race, gender, age, disability, financial status, marital status or any other factors, do not affect how they provide their professional services.

b. **There is evidence that the pharmacist failed to explain and/or refer patient to other health or social care providers.**

This may apply if there is evidence:

i. That the pharmacist refused to explain the reason of him refusing to attend to his patient.

ii. That the pharmacist failed to refer his patient to other healthcare professionals when his patient's problem is beyond his expertise.

c. **There is evidence that the pharmacist failed to respect and protect people's dignity, privacy and confidentiality.**

This may apply if there is evidence:

i. That the pharmacist disclosed confidential information without his patient's consent.

ii. That the pharmacist failed to protect patient privacy and keep other records and information securely.

iii. That the pharmacist failed to guard patient information against accidental disclosures.

iv. That the pharmacist shared patient information with unauthorised person without consent.

d. **There is evidence that the pharmacist failed to maintain appropriate professional boundaries in their relationship with patients and/or others.**

This may apply if there is evidence:

i. That the pharmacist pursued an inappropriate, unwanted, predatory, emotional or sexual relationship with patients, fellow professionals or colleagues;

ii. That the pharmacist displayed inappropriate behaviour, including sexual, racially aggravated, bullying or harassment, towards fellow professionals, colleagues, patients or members of the public.

iii. That the pharmacist committed violence or sexual offences towards fellow professionals, colleagues, patients or members of the public.

e. **There is evidence that the pharmacist failed to obtain necessary consent for the professional services provided.**

This may apply if there is evidence:

i. That the pharmacist failed to obtain consent to perform a certain procedure or intervention.

f. **There is evidence that the pharmacist failed to obtain consent for the use of information during their professional practice and use only for the purposes they were given it, or where the law permits.**

This may apply if there is evidence:

i. That the pharmacist used the information other than consented purpose such as clinical audit, quality assurance, education and training, or where the law permits.

g. **There is evidence that the pharmacist unethically used any printed, electronic and internet media.**

This may apply if there is evidence:

i. That the pharmacist misused and disseminated information by electronic means, including text, other electronic messaging or emailing.

ii. That the pharmacist shared videos, photos or other images of patients by audio, visual or photographic recordings of a patient, or a relative of a patient, in which that person is identifiable.

iii. That the pharmacist breached or abused the security of information expected by the patient.

h. **There is evidence that the pharmacist failed to dispose of drugs and related product in accordance with the relevant law.**

This may apply if there is evidence:

i. That the pharmacist failed to dispose of drugs and related product in accordance with the relevant law.

PRINCIPLE 4 - Encourage Patients and the Public to Participate in Decisions About Their Care

a. **There is evidence that the pharmacist failed to work together in partnership with patients and the public, their caregivers and other healthcare providers to manage their treatment and care.**

This may apply if there is evidence:

i. That the pharmacist failed to communicate effectively.

ii. That the pharmacist failed to listen to or explain matters to patients.

iii. That the pharmacist failed to deal with complaints appropriately and effectively.

iv. That the pharmacist failed to take necessary action to improve communication needs.

b. **There is evidence that the pharmacist failed to provide adequate information on medicine.**

This may apply if there is evidence:

i. That the pharmacist failed to provide enough information, in a way that patient can understand, to enable them to exercise their right to make informed decisions about their medication.

ii. That the pharmacist failed to explain the options available to patients and the public, to help them make informed decisions.

PRINCIPLE 5 – Develop Your Professional Knowledge and Competence

a. **There is evidence that the pharmacist practised outside his/her area of expertise.**

This may apply if there is evidence:

i. That the pharmacist ordered and interpreted laboratory tests to modify the patient's drug regime/therapy.

b. **There is evidence that the pharmacist failed to practise in a manner that does not meet the generally accepted standards of a competent pharmacist.**

This may apply if there is evidence:

i. That the pharmacist failed to detect drug interactions and/or clearly documented allergy information, resulting in adverse effects for the patient.

PRINCIPLE 6 - Be Ethical, Honest and Trustworthy

a. **There is evidence that the pharmacist had conflict of interest, which affected their judgements or decision-making at work, their job duties or their loyalty to the employer.**

This may apply if there is evidence:

i. That the pharmacist accepted gifts, rewards or hospitality that may affect, or be seen to affect, his professional judgement.

ii. That the pharmacist accepted financial or material inducement, which compromise his professional judgement on the choice of drug for his patient or client.

iii. That the pharmacist participated in the promotion of a drug, which involves the supply of such drug with discrimination to his patient.

b. **There is evidence that the pharmacist has behaved dishonestly.**

This may apply if there is evidence:

i. That the pharmacist committed deception, which may include covering up an incident.

ii. That the pharmacist was involved in practices, behaviour or work conditions that could impair professional judgement.

iii. That the pharmacist displayed dishonest behaviour which may or may not be related to their professional work.

c. **There is evidence that the pharmacist failed to ensure accurate information for publication, teaching or providing services.**

This may apply if there is evidence:

i. That the pharmacist made misleading claims without any valid evidence or justification.

ii. That the pharmacist suppressed the results of any research on human.

iii. That the pharmacist committed an act of plagiarism.

PRINCIPLE 7 - Be Responsible of Your Working Practices

a. **There is evidence that the pharmacist continued to practice even if he was not fit to do so.**

This may apply if there is evidence:

i. That the pharmacist's health condition has resulted in behaviour that caused a personal safety issue or posed a risk to his safety.

b. **There is evidence that the pharmacist did not take responsibility for all work they do or are responsible for.**

This may apply if there is evidence:

i. That the pharmacist neglected to take the responsibility to provide a service when working in a team.

c. **There is evidence that the pharmacist did not obey the laws, regulations, standards and policies of the profession.**

This may apply if there is evidence:

i. That the pharmacist supplied medicine that is not registered with Drug Control Authority, Ministry of Health.

ii. That the pharmacist did not store medicines within the recommended storage conditions before they have a chance of reaching consumers.

iii. That the pharmacist supplied expired and damaged medicines to the patients.

iv. That the pharmacist did not adhere to the relevant clinical guidelines in treating his patient.

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