

LEGISLATIVE COUNCIL BRIEF

SUPPLEMENTARY MEDICAL PROFESSIONS ORDINANCE (CHAPTER 359)

Medical Laboratory Technologists (Registration and Disciplinary Procedure) (Amendment) Regulation 2004

Occupational Therapists (Registration and Disciplinary Procedure) (Amendment) Regulation 2004

Optometrists (Registration and Disciplinary Procedure) (Amendment) Regulation 2004

Radiographers (Registration and Disciplinary Procedure) (Amendment) Regulation 2004

Physiotherapists (Registration and Disciplinary Procedure) (Amendment) Regulation 2004

INTRODUCTION

On 6 May 2004, the Supplementary Medical Professions Council (the Council), in exercise of the power under section 29(1B) of the Supplementary Medical Professions Ordinance (Cap. 359) (the Ordinance) and with the approval of the Secretary for Health, Welfare and Food, made the following regulations -

- _____ (a) Medical Laboratory Technologists (Registration and Disciplinary Procedure) (Amendment) Regulation 2004, at Annex A;
- _____ (b) Occupational Therapists (Registration and Disciplinary Procedure) (Amendment) Regulation 2004, at Annex B;
- _____ (c) Optometrists (Registration and Disciplinary Procedure) (Amendment) Regulation 2004, at Annex C;
- _____ (d) Radiographers (Registration and Disciplinary Procedure) (Amendment) Regulation 2004, at Annex D; and
- _____ (e) Physiotherapists (Registration and Disciplinary Procedure) (Amendment) Regulation 2004, at Annex E.

JUSTIFICATION

2. The Ordinance and its subsidiary legislation provide for the registration, discipline and the better control of persons engaged in professions supplementary to medicine. The five professions governed by the Ordinance as set out in the Schedule are: medical laboratory technologists, occupational therapists, optometrists, radiographers and physiotherapists. The Council, set up under section 3, is empowered to promote adequate standards of professional practice and conduct in the professions, co-ordinate and supervise the activities of the boards established under section 5 and carry out any additional functions assigned to it by the Ordinance.

3. The regulations seek to introduce some minor amendments to the following subsidiary legislation of the Ordinance -

- (a) Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations (Cap. 359A);
- (b) Occupational Therapists (Registration and Disciplinary Procedure) Regulations (Cap. 359B);
- (c) Optometrists (Registration and Disciplinary Procedure) Regulation (Cap. 359F);
- (d) Radiographers (Registration and Disciplinary Procedure) Regulation (Cap. 359H); and
- (e) Physiotherapists (Registration and Disciplinary Procedure) Regulation (Cap. 359J).

Appointment of legal officer as Secretary

4. Part IV of the subsidiary legislation mentioned in paragraph 3 above details the proceedings at the hearing of the boards. At present, the Secretary for Justice (SJ) may, upon the application of Secretary of the Board, appoint 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. To provide for operational flexibility, it is proposed that SJ may appoint a counsel or a solicitor, in addition to Government counsel, to carry out the duties of a secretary during an inquiry.

Format of the certificates of registration

5. Persons whose applications for registration or provisional registration have been approved will, upon payment of prescribed fees, be issued with a certificate of registration or a certificate of provisional registration in accordance with sections 14(1) or 15(2) of the Ordinance. Section 18 of the Ordinance further provides that a registrant shall display in a conspicuous position in any premises in which he practises his profession the certificate issued to him. Failure to do so is an offence. The format of the certificates, as now prescribed in the relevant subsidiary legislation of the Ordinance, includes such personal identifiers as the name, registration number, the Hong Kong Identity (ID) Card number and address of the registrant.

6. Under the code of practice on ID card numbers and other personal identifiers issued by the Office of the Privacy Commissioner for Personal Data, data users should not publicly display or disclose ID card numbers with the names of the ID card holders. To comply with the above code, it is proposed that the format of the relevant certificates be amended to remove the display of ID card number.

Change of name of professional associations in occupational therapy and optometry

7. Textual amendments to relevant provisions of the Occupational Therapists (Registration and Disciplinary Procedure) Regulation (Cap. 359B) and the Optometrists (Registration and Disciplinary Procedure) Regulation (Cap. 359F) are proposed to reflect the change of names of the following professional associations -

- (a) Hong Kong Association of Occupational Therapists (香港職業治療師學會), which has been renamed as Hong Kong Occupational Therapy Association (香港職業治療學會); and
- (b) Hong Kong Society of Professional Optometrists, the Chinese name of which has been changed from “香港專業視光師學會” to “香港眼科視光師學會”.

Restrictions on practice for radiographers

8. Section 15 of the Radiographers (Registration and Disciplinary Procedure) Regulation (Cap. 359H) provides for the allowable practice of

diagnostic radiographers with details set out in Schedule 4. Relevant provisions of Schedule 4 provide for diagnostic radiographers accepting referral from medical practitioners and chiropractors in the case of medical exposure relating to the spine. It is proposed to amend these provisions to clarify the interpretation of “spine” by making reference to the long title provided under the Chiropractors Registration Ordinance (Cap. 428).

THE REGULATIONS

9. The regulations amend the subsidiary legislation of the Ordinance in order to -

- (a) allow the Secretary for Justice to appoint, apart from a legal officer within the meaning of the Legal Officers Ordinance (Cap 87), a counsel or a solicitor, to carry out the duties that a secretary has to perform in an inquiry;
- (b) revise the format of the certificates of registration to tie in with the requirements of the Personal Data (Privacy) Ordinance (Cap. 486);
- (c) update some provisions to reflect the change of name of professional associations in occupational therapy and optometry; and
- (d) clarify the restrictions on practice for diagnostic radiographers as regards accepting referral in the case of medical exposure relating to the spine.

LEGISLATIVE TIMETABLE

10. The legislative timetable is as follows –

Publication in the Gazette	14 May 2004
Tabling at Legislative Council	19 May 2004

IMPLICATIONS OF THE REGULATIONS

11. The regulations are in conformity with the Basic Law, including the provisions concerning human rights. They will not affect the current

binding effect of the Ordinance and have no financial and civil service, economic, productivity, environmental and sustainability implications.

PUBLIC CONSULTATION

12. An information paper setting out the proposed amendments was issued to members of the Panel of Health Services on 13 May 2004. Public consultation is not considered necessary because the amendments proposed, which are either technical or textual, will not bring about material change to the operations of the Council nor the existing arrangement for registration and disciplinary control governing the five supplementary medical professions.

PUBLICITY

13. A press release will be issued by the Council on 14 May 2004 when the regulations are gazetted. A spokesman of the Council will be available to answer media and public enquiries.

OTHERS

14. For any enquiries on this brief, please contact Mr Ivan CHAN, Assistant Secretary for Health, Welfare and Food at 2973 8118.

Health, Welfare and Food Bureau
14 May 2004

**MEDICAL LABORATORY TECHNOLOGISTS
(REGISTRATION AND DISCIPLINARY
PROCEDURE) (AMENDMENT)
REGULATION 2004**

(Made by the Supplementary Medical Professions Council under
section 29(1B) of the Supplementary Medical Professions
Ordinance (Cap. 359) subject to the approval of the
Secretary for Health, Welfare and Food)

1. Commencement

This Regulation shall come into operation on 1 August 2004.

2. Interpretation

Regulation 29 of the Medical Laboratory Technologists (Registration and
Disciplinary Procedure) Regulations (Cap. 359 sub. leg. A) is amended, in the
definition of "Secretary", by adding "a counsel, a solicitor or" after "includes".

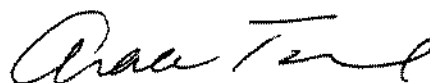
**3. Appointment of counsel, solicitor or legal
officer as Secretary**

Regulation 31 is amended –

- (a) by adding "of the Board appointed under section 5(4)(a) of
the Ordinance" after "Secretary" where it first appears;
- (b) by adding "a counsel, a solicitor or" after "appoint".

4. Forms

Schedule 2 is amended, in Forms 2A and 2B, by repealing "(I.D.
No.)".



Chairman,
Supplementary Medical Professions
Council

6 May 2004

Explanatory Note

This Regulation amends the Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations (Cap. 359 sub. leg. A) –

- (a) to change the definition of “Secretary” in Part IV to include a counsel and a solicitor;
- (b) to empower the Secretary for Justice to appoint a counsel or a solicitor to carry out the duties which a secretary has to perform in an inquiry; and
- (c) to remove the requirement to provide identity card number in Forms 2A and 2B in Schedule 2.

**OCCUPATIONAL THERAPISTS (REGISTRATION AND
DISCIPLINARY PROCEDURE) (AMENDMENT)
REGULATION 2004**

(Made by the Supplementary Medical Professions Council under
section 29(1B) of the Supplementary Medical Professions
Ordinance (Cap. 359) subject to the approval of the
Secretary for Health, Welfare and Food)

1. Commencement

This Regulation shall come into operation on 1 August 2004.

2. Preliminary Investigation Committee

Regulation 17(1)(b) and (c) of the Occupational Therapists (Registration and Disciplinary Procedure) Regulations (Cap. 359 sub. leg. B) is amended by repealing "Hong Kong Association of Occupational Therapists" and substituting "Hong Kong Occupational Therapy Association".

3. Interpretation

Regulation 29 is amended, in the definition of "Secretary", by adding "a counsel, a solicitor or" after "includes".

4. Appointment of counsel, solicitor or legal officer as Secretary

Regulation 31 is amended –

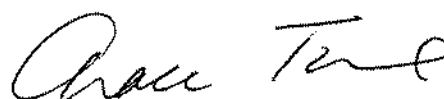
- (a) by adding "of the Board appointed under section 5(4)(a) of the Ordinance" after "Secretary" where it first appears;
- (b) by adding "a counsel, a solicitor or" after "appoint".

5. Forms

Schedule 2 is amended, in Forms 2A and 2B, by repealing "(I.D. No.)".

6. Preliminary Investigation Committee

Schedule 5 is amended, in paragraph 3, by repealing "Hong Kong Association of Occupational Therapists" and substituting "Hong Kong Occupational Therapy Association".



Chairman,
Supplementary Medical Professions
Council

6 May 2004

Explanatory Note

This Regulation amends the Occupational Therapists (Registration and Disciplinary Procedure) Regulations (Cap. 359 sub. leg. B) –

- (a) to change the name of the Hong Kong Association of Occupational Therapists;
- (b) to change the definition of "Secretary" in Part IV to include a counsel and a solicitor;
- (c) to empower the Secretary for Justice to appoint a counsel or a solicitor to carry out the duties which a secretary has to perform in an inquiry; and
- (d) to remove the requirement to provide identity card number in Forms 2A and 2B in Schedule 2.

**OPTOMETRISTS (REGISTRATION AND DISCIPLINARY
PROCEDURE) (AMENDMENT)
REGULATION 2004**

(Made by the Supplementary Medical Professions Council under
section 29(1B) of the Supplementary Medical Professions
Ordinance (Cap. 359) subject to the approval of the
Secretary for Health, Welfare and Food)

1. Commencement

This Regulation shall come into operation on 1 August 2004.

2. Preliminary Investigation Committee

Section 17(1)(c) of the Optometrists (Registration and Disciplinary Procedure) Regulation (Cap. 359 sub. leg. F) is amended by repealing “香港專業視光師學會” and substituting “香港眼科視光師學會”.

3. Interpretation

Section 29 is amended, in the definition of “Secretary”, by adding “a counsel, a solicitor or” after “includes”.

4. Appointment of counsel, solicitor or legal officer as Secretary

Section 31 is amended –


- (a) by adding “of the Board appointed under section 5(4)(a) of the Ordinance” after “Secretary” where it first appears;
- (b) by adding “a counsel, a solicitor or” after “appoint”.

5. Forms

Schedule 2 is amended, in Forms 2A and 2B, by repealing “(ID No.:)”.

6. Preliminary Investigation Committee

Schedule 5 is amended, in section 3, by repealing “香港專業視光師學會” and substituting “香港眼科視光師學會”.



Chairman,
Supplementary Medical Professions
Council

6 May 2004

Explanatory Note

This Regulation amends the Optometrists (Registration and Disciplinary Procedure) Regulation (Cap. 359 sub. leg. F) –

- (a) to change the Chinese name of the Hong Kong Society of Professional Optometrists;
- (b) to change the definition of “Secretary” in Part IV to include a counsel and a solicitor;
- (c) to empower the Secretary for Justice to appoint a counsel or a solicitor to carry out the duties which a secretary has to perform in an inquiry; and
- (d) to remove the requirement to provide identity card number in Forms 2A and 2B in Schedule 2.

**RADIOGRAPHERS (REGISTRATION AND DISCIPLINARY
PROCEDURE) (AMENDMENT)
REGULATION 2004**

(Made by the Supplementary Medical Professions Council under
section 29(1B) of the Supplementary Medical Professions
Ordinance (Cap. 359) subject to the approval of the
Secretary for Health, Welfare and Food)

1. Commencement

This Regulation shall come into operation on 1 August 2004.

2. Interpretation (Part IV)

Section 32 of the Radiographers (Registration and Disciplinary Procedure)
Regulation (Cap. 359 sub. leg. H) is amended, in the definition of "Secretary",
by adding "a counsel, a solicitor or" after "includes".

**3. Appointment of counsel, solicitor or legal
officer as Secretary**

Section 34 is amended –

- (a) by adding "of the Board appointed under section 5(4)(a) of
the Ordinance" after "Secretary" where it first appears;
- (b) by adding "a counsel, a solicitor or" after "appoint".

4. Forms

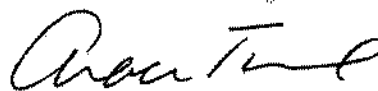
Schedule 2 is amended, in Forms 2A and 2B, by repealing "(ID
No.:)".

5. Restrictions on practice of radiographers

Part 1 of Schedule 4 is amended –

- (a) in item 3, in column 4, in paragraph (c), by repealing
"spine" and substituting "vertebral column and peripheral
joints, including the pelvis";

- (b) in item 4, in column 4, in paragraph (a)(iii), by repealing "spine" and substituting "vertebral column and peripheral joints, including the pelvis";
- (c) in item 5, in column 4, in paragraph (a)(iii), by repealing "spine, either," and substituting "vertebral column and peripheral joints, including the pelvis, either".



Chairman,
Supplementary Medical Professions
Council

6 May 2004

Explanatory Note

This Regulation amends the Radiographers (Registration and Disciplinary Procedure) Regulation (Cap. 359 sub. leg. H) –

- (a) to change the definition of "Secretary" in Part IV to include a counsel and a solicitor;
- (b) to empower the Secretary for Justice to appoint a counsel or a solicitor to carry out the duties which a secretary has to perform in an inquiry;
- (c) to remove the requirement to provide identity card number in Forms 2A and 2B in Schedule 2; and
- (d) to clarify that diagnostic radiographers can accept referral by chiropractors for plain radiograph for the vertebral column and peripheral joints (including the pelvis).

**PHYSIOTHERAPISTS (REGISTRATION AND
DISCIPLINARY PROCEDURE) (AMENDMENT)
REGULATION 2004**

(Made by the Supplementary Medical Professions Council under
section 29(1B) of the Supplementary Medical Professions
Ordinance (Cap. 359) subject to the approval of the
Secretary for Health, Welfare and Food)

1. Commencement

This Regulation shall come into operation on 1 August 2004.

2. Interpretation

Section 29 of the Physiotherapists (Registration and Disciplinary Procedure) Regulation (Cap. 359 sub. leg. J) is amended, in the definition of "Secretary", by adding "a counsel, a solicitor or" after "includes".

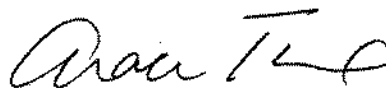
3. Appointment of counsel, solicitor or legal officer as Secretary

Section 31 is amended –

- (a) by adding "of the Board appointed under section 5(4)(a) of the Ordinance" after "Secretary" where it first appears;
- (b) by adding "a counsel, a solicitor or" after "appoint".

4. Forms

Schedule 2 is amended, in Forms 2A, 2B and 2C, by repealing "(ID No.:)".



Chairman,
Supplementary Medical Professions
Council

6 May 2004

Explanatory Note

This Regulation amends the Physiotherapists (Registration and Disciplinary Procedure) Regulation (Cap. 359 sub. leg. J) –

- (a) to change the definition of “Secretary” in Part IV to include a counsel and a solicitor;
- (b) to empower the Secretary for Justice to appoint a counsel or a solicitor to carry out the duties which a secretary has to perform in an inquiry; and
- (c) to remove the requirement to provide identity card number in Forms 2A, 2B and 2C in Schedule 2.