

核對表及指引
Check List and Instructions

輔助醫療業條例
(第 359 章)

SUPPLEMENTARY MEDICAL PROFESSIONS ORDINANCE
(CAP. 359)

如欲確定此乃本成文法則的最新核對表及指引，請參閱第 1 冊內的總核對表及指引第 II 部所載本成文法則的核對表及指引的刊印期數，該刊印期數應與此頁右下角所示的刊印期數相同。
To verify that this is the latest Check List and Instructions for this enactment, please refer to the issue number of Check List and Instructions for this enactment shown in Part II of the Master Check List and Instructions in Volume 1. Such issue number should be the same as the issue number shown at the lower right hand corner of this page.

如欲知悉本成文法則文本切合何時的法律情況，請參閱第 1 冊內的總核對表及指引第 I 部。
To determine how up to date the text of this enactment is, please see Part I of the Master Check List and Instructions in Volume 1.

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尚未實施 —

對第 1(2)條的修訂 — 見 1985 年第 67 號第 2 條

The following are not yet in operation —

Amendment to s. 1(2) — see 67 of 1985 s. 2

| | |
|---|-------------|
| ☆ | — Phase II |
| ✱ | — Phase III |

CHAPTER 359
SUPPLEMENTARY MEDICAL PROFESSIONS ORDINANCE

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第 359 章

輔助醫療業條例

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PART III

REGISTRATION AND PRACTISING CERTIFICATES

10. Every profession to have a separate register

(1) Each board shall cause a register for the relevant profession to be kept in the form prescribed and the secretary of the board shall be responsible for the maintenance and custody of the register.

(2) The secretary of the board shall from time to time insert in the register any alteration or addition which may come to his knowledge to the name, addresses, or qualifications of any person registered.

(3) The secretary shall make such amendments to the register as are made necessary by any decision of the board.

(4) The board may direct the removal from the register of the name of any person who—

- (a) requests in writing that his name be so removed;
- (b) is deceased;
- ★ (c) being a person required to be the holder of a practising certificate, has practised a profession in Hong Kong for a period exceeding 6 months without having obtained such a certificate;
- (d) is not practising his profession in Hong Kong; or
- (e) has not supplied the secretary of the board with an address in Hong Kong at which all notices from the board may be served on him:

Provided that any person failing to acknowledge within 6 months of the date of dispatch the receipt of a registered letter or telegram addressed to him at the last address supplied by him to the secretary shall be deemed not to have supplied the secretary with an address under this paragraph.

(5) A person whose name has been removed from a register under this section or section 22, may apply to the board for the restoration of his name to the register, and, subject to the submission by such person of a declaration stating whether or not he has been convicted in Hong Kong or elsewhere of any offence punishable with imprisonment since the date of the last declaration made by him to the like effect for the purposes of his registration or his application for a practising certificate (as the case may be), the board may subject to any conditions it considers appropriate, approve or decline the application, and, if it approves the same, the secretary of the board shall, upon payment of the prescribed fee, restore the name accordingly. (Amended 68 of 1995 s. 2; 80 of 1997 s. 96)

(6) A register may be inspected without payment of any fee, during usual business hours upon application to the secretary of the board.

第三部

註冊及執業證明書

10. 每個專業各自備有註冊名冊

(1) 每一委員會均須安排按訂明的格式為有關的專業備存註冊名冊，委員會秘書則須負責保存與保管該註冊名冊。

(2) 委員會秘書在獲悉已註冊的人的姓名、地址或資格有所更改或增補後，須不時將有關的更改或增補加入註冊名冊內。

(3) 秘書須按委員會所作的決定而在註冊名冊作出需要的修訂。

(4) 委員會可指示將以下任何人的姓名從註冊名冊除去——

- (a) 以書面要求將自己的姓名從註冊名冊除去的；
- (b) 已去世的；

★ (c) 按規定須持有執業證明書，但在香港從事有關專業超過 6 個月而仍未領取該執業證明書的；

(d) 目前並非在香港從事其專業的；或

(e) 並沒有向委員會秘書提供一處可向他送達委員會的所有通知的香港地址的；

但如按任何人向秘書最後提供的地址，向該人發出掛號信件或電報當日起的 6 個月內，該人仍無確證接獲該掛號信件或電報，則須當作該人如本段所述並沒有向秘書提供地址。

(5) 如任何人的姓名根據本條或第 22 條從註冊名冊除去，則該人可向委員會申請將其姓名重新列入註冊名冊，而在該人呈交一份聲明後（該聲明須述明在他就其註冊或其中請執業證明書（視屬何情況而定）的目的而作出上一次意思相同的聲明的日期後曾否於香港或其他地方被裁定犯可判處監禁的罪行），委員會可按任何其認為適合的條件批准或拒絕該申請，如委員會批准該申請，則委員會秘書須於訂明費用經繳付後，據此將該姓名重新列入。（由 1995 年第 68 號第 2 條修訂；由 1997 年第 80 號第 96 條修訂）

(6) 如要查閱註冊名冊，可無須繳付任何費用而於通常辦公時間內向委員會秘書申請。

11. Publication of register and evidence of registration

(1) As soon as may be after 1 July of every year, the secretary of each board shall prepare and publish in the Gazette, lists of the names, addresses, qualifications and dates of the qualifications of all persons whose names appear on the register maintained by the secretary, on 1 July immediately preceding the publication of such list.

(2) The publication of a list under subsection (1) shall be evidence that each person named in such list is registered.

(3) The absence of the name of a person from the list last published under subsection (1) shall be evidence that such person is not registered.

(4) A certificate under the signature of the secretary of a board stating that the name of a person is or is not at any date or was or was not at any date registered shall be admitted in evidence on its production without further proof and—

- (a) until the contrary is proved it shall be presumed that the certificate was signed by that secretary; and
- (b) the certificate shall be prima facie evidence of the facts stated therein. (*Replaced 67 of 1985 s. 4*)

12. Persons who are qualified to be registered

(1) Subject to this Ordinance, the following persons are qualified to be registered—

- (a) a person who—
 - (i) holds such degree, diploma or other document as may be prescribed, issued by any examining body as may be prescribed or by the board; or
 - (ii) holds any such degree, diploma or other document and has the prescribed experience; or (*Replaced 70 of 1989 s. 2*)
- (b) a person who holds such other degree, diploma or any other document of any examining body, which together with appropriate experience, may from time to time be recognized by the Council as qualifying the holder thereof to be registered; and in deciding whether or not to so recognize the Council may consult the relevant board; or
- (c) a person who, on the date on which this section commenced to apply to a profession, is practising that profession and who by reason of his education, training, professional experience and skill satisfies the Council, after consultation with the relevant board, that he is a fit person to be registered.

(1A) Notwithstanding any other provision of this Ordinance, the Council shall—

11. 註冊名冊的刊登及註冊證據

(1) 各委員會的秘書均須於每年 7 月 1 日後盡速擬備並在憲報刊登名單，載有於緊接該等名單在憲報刊登前的 7 月 1 日姓名列於由秘書備存的註冊名冊內的全部人的姓名、地址、資格及獲得資格的日期。

(2) 根據第 (1) 款刊登的名單一經刊登，即為姓名列於該名單上的每一個人已獲註冊的證據。

(3) 任何人如其姓名並未列入最近一次根據第 (1) 款刊登的名單內，即為該人未獲註冊的證據。

(4) 一份由某委員會的秘書簽署並述明某人的姓名於某日期已獲註冊或未獲註冊的證明書，一經出示，無須再作證明，即須獲接納為證據，而——

- (a) 該證明書須推定是由該秘書簽署的，直至相反證明成立為止；及
- (b) 該證明書為其中所述明的事實的表面證據。 (*由 1985 年第 67 號第 4 條代替*)

12. 具備註冊資格的人

(1) 在符合本條例的規定下，以下的人具備註冊資格——

- (a) (i) 持有由任何訂明的主考當局或由委員會發出的訂明學位、文憑或其他文件的人；或
- (ii) 持有任何該等學位、文憑或其他文件並具備訂明的經驗的人；或 (*由 1989 年第 70 號第 2 條代替*)
- (b) 持有由任何主考當局發出的其他學位、文憑或任何其他文件的人，而該等其他學位、文憑或任何其他文件是管理局不時承認為連同適合的經驗則足以使該持有人具備註冊資格的；管理局在決定是否如此予以承認時，可諮詢有關委員會；或
- (c) 於本條對某個專業適用的生效日期正從事該專業的人，並憑其所受教育、訓練、專業經驗及技能令管理局在諮詢有關委員會後，信納其為適合註冊者。

(1A) 即使本條例任何其他條文有所規定，管理局仍須——

- (a) determine in which part of the register, not being a part referred to in section 15(8), the name of a person qualified to be registered by virtue of subsection (1)(b) or (c) shall be entered, subject to his application for registration being approved under section 13(2); and
- (b) direct the secretary of the relevant board accordingly for the purposes of entry in the register under section 13(4). (Added 70 of 1989 s. 2)

(2) A person who wilfully procures himself or any other person to be registered by making or producing or causing to be made or produced, any false or fraudulent representation or declaration, whether in writing or otherwise commits an offence.

13. Application for registration

(1) A person claiming to be qualified to be registered may apply in the manner prescribed to the secretary of the relevant board for registration and such application shall be accompanied by such documents, photographs and particulars as may be prescribed.

(2) The application of person qualified to be registered in accordance with section 12 who has complied with subsection (1) and with any regulations relating thereto, shall, subject to subsection (3), be approved by the board for registration. (Replaced 67 of 1985 s. 5)

(3) After due inquiry into any case referred to it by a Preliminary Investigation Committee in accordance with regulations made under section 29, the board may decline to approve the application of a person applying under subsection (1) on any of the grounds mentioned in section 22(1)(a), (b), (c), (d) or (e). (Added 67 of 1985 s. 5)

(4) Where an application for registration receives the approval of the board, the name of the applicant shall after payment of the prescribed fee be entered in the register by the secretary of the board in accordance with this Ordinance and regulations made thereunder, and upon such entry, the applicant shall be entitled to represent in connexion with his profession that he is registered and, subject to section 16(1), and any regulations made under section 29 shall be entitled to practise that profession. (Amended 67 of 1985 s. 5; 70 of 1989 s. 3; 68 of 1995 s. 2; 80 of 1997 s. 20)

14. Certificate of registration

(1) When a person has been registered, the secretary of the relevant board shall issue to him a certificate of registration in the prescribed form.

(2) The secretary of the board may amend any particulars contained in a certificate of registration.

(3) A person registered who requires a certified copy of his certificate of registration in order to comply with section 18 shall apply in writing to the

(a) 決定將憑藉第 (1)(b) 或 (c) 款而具備註冊資格的人的姓名列入註冊名冊某部分內，但並非第 15(8) 條所提述的部分，而該人的註冊申請須根據第 13(2) 條獲得批准方可；及

(b) 據此向有關委員會的秘書發出指示，以根據第 13(4) 條將記項列入註冊名冊。(由 1989 年第 70 號第 2 條增補)

(2) 任何人故意促使其本人或任何其他入籍作出或出示或藉導致作出或導致出示書面或其他形式的任何虛假或有欺詐成分的中述或聲明而獲得註冊，即屬犯罪。

13. 註冊的申請

(1) 聲稱具備註冊資格的人可按訂明的方式向有關委員會的秘書申請註冊，而該項申請須連同訂明的文件、照片及詳情提出。

(2) 按照第 12 條具備註冊資格的人，如已遵從第 (1) 款及任何有關的規例，則除第 (3) 款另有規定外，須獲委員會批准註冊。(由 1985 年第 67 號第 5 條代替)

(3) 委員會對初步調查小組按照根據第 29 條所訂立的規例而轉呈委員會的任何個案經適當的研訊後，可基於第 22(1)(a)、(b)、(c)、(d) 或 (e) 條所述的其中任何理由，拒絕批准某人根據第 (1) 款提出的申請。(由 1985 年第 67 號第 5 條增補)

(4) 凡註冊的申請獲得委員會批准，於訂明費用繳付後，申請人的姓名須由委員會秘書按照本條例及根據本條例所訂立的規例列入註冊名冊，而該記項一經列入，申請人即有權就其專業有關的事宜表示自己已獲註冊，並且在符合第 16(1) 條及根據第 29 條所訂立的任何規例的情況下，有權從事該專業。(由 1985 年第 67 號第 5 條修訂；由 1989 年第 70 號第 3 條修訂；由 1995 年第 68 號第 2 條修訂；由 1997 年第 80 號第 20 條修訂)

14. 註冊證明書

(1) 如任何人獲註冊，則有關委員會的秘書須向他發出一張按訂明格式擬備的註冊證明書。

(2) 委員會秘書可修訂載於註冊證明書內的任何詳情。

(3) 任何為遵從第 18 條而需要註冊證明書核證副本的獲註冊的人，須以書面向有關委員會的秘書提出申請，連明其擬執業的處所地址，而秘書於訂明費用獲繳付

15B. Appeal

- (1) Any person aggrieved by a decision of the board, other than—
 (a) a decision under section 13(3) or an order under section 22;
 (b) a decision relating to admission to provisional registration under section 15; or
 (c) a decision relating to an examination referred to in section 15A,
 may appeal against the decision to the Council in accordance with regulations made under this Ordinance.
- (2) Upon hearing the appeal, the Council may confirm, vary or revoke the decision of the board.
- (3) The decision of the Council under subsection (2) shall be final.
(Added 70 of 1989 s. 6)

16. Registered person not to practise without practising certificate

- ☆ (1) A person registered shall not practise a profession in Hong Kong unless he is the holder of a practising certificate which is then in force.
- (2) On application made by a person registered to the secretary of the relevant board for the purpose of the issue of a practising certificate, and subject to—
 (a) the payment of the prescribed fee for the issue of a practising certificate; and
 (b) the submission of a declaration stating whether or not the registered person has been convicted in Hong Kong or elsewhere of any offence punishable with imprisonment since the date of the last declaration made by him to the like effect for the purposes of his registration or his application for a practising certificate (as the case may be),
 the secretary shall issue to him a certificate to the effect that he is, subject to any conditions and restrictions specified in the certificate, entitled to practise his profession. *(Replaced 80 of 1997 s. 97)*
- (3) Where a practising certificate is issued pursuant to an application made under subsection (2), the certificate shall, subject to subsection (5), be in force for any period not exceeding 12 months and ending on 30 June in any year as may be specified in the certificate. *(Amended 64 of 1991 s. 2)*
- (4) *(Repealed 64 of 1991 s. 2)*
- (5) If at any time during the currency of a practising certificate, the holder of the certificate ceases to be registered, the certificate shall thereupon be deemed cancelled.

15B. 上訴

- (1) 任何人如對委員會的決定感到受屈，可按照根據本條例所訂立的規例就該項決定向管理局提出上訴，但上述決定不包括——
 (a) 根據第 13(3) 條所作的決定或根據第 22 條所作出的命令；
 (b) 與根據第 15 條接納臨時註冊有關的決定；或
 (c) 與第 15A 條所提述的考試有關的決定。
- (2) 管理局在聆訊上訴後，可確認、更改或撤銷委員會的決定。
- (3) 管理局根據第 (2) 款作出的決定即為最終決定。
(由 1989 年第 70 號第 6 條增補)

16. 獲註冊的人無執業證明書不得執業

- ☆ (1) 獲註冊的人除非持有當時有效的執業證明書，否則不得在香港從事某一專業。
- (2) 凡獲註冊的人為發出執業證明書的目的而向有關委員會的秘書提出申請，在——
 (a) 發給執業證明書的訂明費用繳付後；及
 (b) 呈交一份聲明後（該聲明須述明在該獲註冊的人就其註冊或其中請執業證明書（視屬何情況而定）的目的而作出上一次意思相同的聲明的日期後曾否於香港或其他地方被裁定犯可判處監禁的罪行），
 秘書須向該人發出一份證明書，表明他在該證明書上指明的條件及限制所規限下有權從事其專業。 *(由 1997 年第 80 號第 97 條代替)*
- (3) 凡執業證明書是依據一項根據第 (2) 款作出的申請而發出的，則在第 (5) 款的規限下，該執業證明書的有效期間不得超過 12 個月，並於該證明書上所指明的任何年份的 6 月 30 日終止。 *(由 1991 年第 64 號第 2 條修訂)*
- (4) *(由 1991 年第 64 號第 2 條廢除)*
- (5) 如在執業證明書的有效期間，證明書持有人停止獲得註冊，則該證明書須隨即當作已被取消。

(6) A person who is required under this section to be the holder of a practising certificate under this section shall be deemed to have obtained the certificate when he has duly applied to the secretary of the board, paid the prescribed fee for the certificate and submitted the declaration referred to in subsection (2)(b). (Amended 80 of 1997 s. 97)

(7) A person who is required under this section to be the holder of a practising certificate shall not be entitled to recover any fees, costs or other remuneration on any cause of action relating to the practice of his profession unless he was, at the time when the cause of action arose, the holder of a valid practising certificate.

17. Recovery of practising fees

(1) If any person registered contravenes section 16(1) the amount of the fee prescribed for the purposes of section 16(2) shall be recoverable as a civil debt by claim made in the name of the secretary of the relevant board.

(2) In any proceedings under this section a certificate purporting to be under the hand of the secretary of the board, that the person registered, has not paid the fee prescribed for the issue of a practising certificate shall, until the contrary is proved, be evidence of non-payment of the fee.

(3) On recovery from a person of a prescribed fee under this section, the secretary of the relevant board shall, if the person is registered, issue a practising certificate to him.

18. Certificate of registration to be displayed in premises

(1) A person registered shall keep displayed in a conspicuous position in any premises in which he practises his profession, his certificate of registration, or a certified copy of such certificate issued under section 14(3).

(2) A person registered who fails to comply with subsection (1) commits an offence.

(3) A person who displays or causes or permits to be displayed in any premises, a certificate of registration or a certified copy of a certificate of registration bearing his name or photograph, at a time when his name does not appear on the register kept for the profession to which that certificate relates, commits an offence.

(6) 任何根據本條規定須持有本條所指的執業證明書的人，一經向委員會秘書妥為提出申請，繳付執業證明書的訂明費用，以及呈交第(2)(b)款所提述的聲明後，即當作已取得該證明書。(由1997年第80號第97條修訂)

(7) 任何根據本條規定須持有執業證明書的人，無權根據任何與從事其專業有關的訴因而追討費用、訟費或其他酬金，但如他於該訴因產生時已持有有效的執業證明書，則屬例外。

17. 執業費的追討

(1) 如獲註冊的人違反第16(1)條的規定，則為施行第16(2)條而訂明的費用款額，須以有關委員會的秘書的名義提出申索作為民事債項追討。

(2) 在任何根據本條提起的法律程序中，一份看來是由委員會秘書簽署的證明書，表明獲註冊的人未曾繳付發出執業證明書所訂明的費用，即為欠繳該費用的證據，直至相反證明成立為止。

(3) 有關委員會的秘書根據本條向某人追討得訂明費用後，如該人是獲註冊的，則須將執業證明書發給該人。

18. 註冊證明書於處所內展示

(1) 任何獲註冊的人須在他從事其專業的任何處所內的顯眼處，保持展示其註冊證明書或根據第14(3)條發出的該證明書的核證副本。

(2) 任何獲註冊的人不遵從第(1)款，即屬犯罪。

(3) 任何人如在任何處所展示或導致或允許將一份附有其姓名或照片的註冊證明書或註冊證明書的核證副本展示，而當時該人的姓名並未列於就該註冊證明書所指的專業而備存的註冊名冊內，即屬犯罪。

PART IV
CONTROL OF PROFESSIONS

第 IV 部
專業的控制

✎ 18A. Applicants under section 15 deemed to be registered

(1) Subject to subsection (2), any person practising a profession on the date when sections 20 and 21 commenced to apply to that profession who applies for provisional registration under section 15 within the period of time determined by the Council under that section shall be deemed to be registered in respect of that profession for the purposes of those sections, until his application for provisional registration is disposed of by the board.

(2) Subsection (1) shall not apply in respect of any person who has appealed to the Court of Appeal under section 25 from a decision of the board made under section 13(3) declining his application for registration. (*Amended 80 of 1997 s. 102*)

(*Added 70 of 1989 s. 7*)

19. Premises to be suitable for practice

(1) No person registered shall practise his profession in premises which are considered by the relevant board to be unsuitable for such practice.

(2) A public officer with the authorization of the board, which shall be signed by the Chairman of the board, may at any reasonable time enter and inspect premises used or proposed to be used, for the practice of a profession and shall on demand, produce such authority.

(3) A person wilfully obstructing or resisting a public officer duly authorized by the board, in the inspection of premises used or proposed to be used for the practice of a profession, commits an offence.

20. Companies may carry on professions by way of trade or business

✎ (1) Except as provided by subsection (2) no corporation may carry on the business of practising a profession.

✎ (2) A company registered under the Companies Ordinance (Cap. 32) may carry on the business of practising a profession if—

- (a) at least one director thereof (in this section called "professionally qualified director") is a person who—
- (i) is registered in respect of that profession; and

✎ 18A. 根據第 15 條提出申請的人當作獲註冊

(1) 除第 (2) 款另有規定外，任何在第 20 及 21 條適用於其專業的生效日期正從事某專業的人，如根據第 15 條在管理局根據該條決定的期限內申請臨時註冊，則就該等條文的施行而言，須當作就該專業獲註冊，直至委員會已處置其臨時註冊的申請為止。

(2) 任何人如根據第 25 條向上訴法院對委員會根據第 13(3) 條拒絕其註冊申請的決定提出上訴，第 (1) 款即不得就該人適用。 (*由 1997 年第 80 號第 102 條修訂*)
(*由 1989 年第 70 號第 7 條增補*)

19. 適宜執業的處所

(1) 任何獲註冊的人不得在有關委員會認為不適宜從事其專業的處所內從事其專業。

(2) 具有委員會的授權書(由委員會主席簽署)的公職人員，可於任何合理時間進入與視察用作或擬用作從事某專業的處所，並須應要求出示該授權書。

(3) 任何人故意妨礙或抗拒獲委員會妥為授權的公職人員視察用作或擬用作從事某專業的處所，即屬犯罪。

20. 公司可以生意或業務方式經營專業

✎ (1) 除第 (2) 款另有規定外，任何法團均不得經營從事某專業的業務。

✎ (2) 根據《公司條例》(第 32 章)註冊的公司如符合以下情況，則可經營從事某專業的業務——

- (a) 該公司至少有 1 名董事(在本條稱為"具備專業資格的董事")是以下的人——
- (i) 就該專業獲註冊；及

(ii) satisfies any requirements imposed by any regulations made under this Ordinance as to qualifications, experience or training necessary for a person registered in respect of that profession to practise without supervision; and (*Amended 70 of 1989 s. 12*)

(b) all persons practising the profession who are employed by the company are registered in respect of that profession.

✕ (3) Within 14 days after 1 July in each year, a company carrying on the business of practising a profession shall transmit to the secretary of the relevant board a statement in the prescribed form containing—

(a) the names and addresses of all persons who are professionally qualified directors, directors other than professionally qualified directors, and of all managers of the company;

(b) the names, addresses, occupations and qualifications of all persons employed by the company who are practising the profession and the duties performed by such persons; and

(c) such other particulars as may be prescribed.

✕ (4) A corporation which carries on the business of practising a profession other than in compliance with subsection (2) commits an offence and—

(a) every—

(i) director thereof other than a professionally qualified director; and

(ii) manager thereof, unless he proves that the offence was committed without his knowledge; and

(b) every professionally qualified director,

commits a like offence.

✕ (5) A company which fails to comply with subsection (3) commits an offence and every professionally qualified director commits a like offence.

(*Replaced 67 of 1985 s. 6*)

21. Professions only to be practised by persons registered

(1) Except as provided in section 20(2), a person who practises a profession without being registered in respect of that profession commits an offence. (*Amended 67 of 1985 s. 7*)

(2) Any person who employs any other person to practise a profession to which this Ordinance relates when the second-mentioned person is not registered in respect of that profession commits an offence.

(3) Where a person has been convicted of an offence under this section, a magistrate may, on application made on behalf of the Crown, order that all materials and equipment in the possession or under the control of that person and used in the practice of a profession shall be forfeited.

(ii) 符合根據本條例所訂立的任何規例中，對於獲註冊在無監督下從事該專業的人所需的資格、經驗或訓練方面而施加的任何規定；及
(由 1989 年第 70 號第 12 條修訂)

(b) 所有該公司僱用的從事該專業的人均就該專業獲註冊。

✕ (3) 每年於 7 月 1 日後的 14 天內，經營從事某專業的業務的公司須以訂明的表格向有關委員會的秘書呈交一份報表，其中載明——

(a) 公司所有具備專業資格的董事，不具備專業資格的董事及所有經理的姓名及地址；

(b) 所有公司僱用而從事該專業的人的姓名、地址、職業及資格，以及該等人所執行的職責；及

(c) 所訂明的其他詳情。

✕ (4) 任何法團經營從事某專業的業務而沒有遵從第 (2) 款，即屬犯罪，而以下的人即屬犯相同的罪行——

(a) 該法團每一名——

(i) 不具備專業資格的董事；及

(ii) 經理，

除非他證明該罪行是在其不知情的情況下所犯的，則屬例外；及

(b) 每一名具備專業資格的董事。

✕ (5) 任何公司沒有遵從第 (3) 款，即屬犯罪，而每一名具備專業資格的董事，即屬犯相同的罪行。

(由 1985 年第 67 號第 6 條代替)

✕ 21. 只限獲註冊的人從事專業

(1) 除第 20(2) 條另有規定外，任何人從事某專業而並無就該專業註冊，即屬犯罪。 (由 1985 年第 67 號第 7 條修訂)

(2) 任何人僱用任何其他他人從事本條例所指的專業而該第二名述及的人並無就該專業註冊者，即屬犯罪。

(3) 凡任何人被裁定犯本條所訂的罪行，裁判官應代表官方提出的申請，可命令沒收該人管有或控制，並於從事該專業時使用的一切物料及設備。

PART V
DISCIPLINE第 V 部
紀律

22. Disciplinary powers of board

(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; (*Replaced 67 of 1985 s. 8*)
- (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 decision of the Court of Appeal affirming or varying such order, the board—

- (a) shall, in the case of an order made under subsection (1)(i), (ii) or (iii), or the order as so varied, as the case may be, publish the order 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), or the order as so varied, as the case may be, publish the order 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.

22. 委員會的紀律處分權力

(1) 委員會對初步調查小組按照根據第 29 條所訂立的規例轉呈的任何個案作適當的研訊後，如信納任何獲該委員會註冊的人——

- (a) 曾在香港或其他地方被裁定犯可判處監禁的罪行；
- (b) 曾在香港或其他地方犯了不專業行為； (*由 1985 年第 67 號第 8 條代替*)
- (c) 在註冊時未具備註冊的資格；
- (d) 藉欺詐或失實陳述獲得註冊；或
- (e) 未有遵從或已違反其註冊的條件(非根據第 15 條所訂的條件)或未有遵從本條例，

則委員會可——

- (i) 命令將該獲註冊的人的姓名從註冊名冊除去；
- (ii) 命令將該獲註冊的人的姓名在委員會認為適當的期間從註冊名冊除去；
- (iii) 命令譴責該獲註冊的人；或
- (iv) 命令向該獲註冊的人送達一封載有委員會認為內容適當的警告信。

(2) 在根據第 25 條可就委員會根據第 (1) 款作出的一項命令而向上訴法院提出上訴的期限屆滿後 1 個月內，或如已提出該上訴，則在上訴法院作出維持或更改該命令的決定之後 1 個月內——

- (a) 如屬根據第 (1)(i)、(ii) 或 (iii) 款作出的命令，或經如此更改的命令(視屬何情況而定)，委員會須將該命令連同詳情的敘述及該命令有關的事項的性質，一併在憲報刊登；及
- (b) 如屬根據第 (1)(iv) 款作出的命令，或經如此更改的命令(視屬何情況而定)，委員會可將該命令連同詳情的敘述及該命令有關的事項的性質，一併在憲報刊登。

(3) 在根據本條進行的任何研訊中，委員會可就其秘書、申訴人、出席研訊的大律師或律師及獲註冊的人，或其中一人或多於一人的訟費的繳付作出其認為適當的命令，而所判給的任何訟費可作為民事債項追討。

(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. (Added 67 of 1985 s. 8)

(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 of the Commonwealth having unlimited jurisdiction in civil matters, or on appeal from a decision in such proceedings, shall be conclusive evidence of the fact found. (Added 67 of 1985 s. 8)

23. Powers of boards at inquiries

(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— (Amended 67 of 1985 s. 9)

- (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; (Added 67 of 1985 s. 9)
- (d) to admit to the inquiry or to exclude therefrom the press; and (Added 67 of 1985 s. 9)
- (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. (Added 67 of 1985 s. 9)

(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) 本條不得規定委員會必須查究獲註冊的人是否被適當判罪的問題，但委員會可考慮任何錄載該項判罪的案件紀錄，亦可考慮所得的和有關顯示罪行性質及嚴重程度的任何其他證據。(由 1985 年第 67 號第 8 條增補)

(5) 在根據本條就某人是否犯了不專業行為而進行研訊時，任何事實的裁斷，如能證明是在對民事案件具有不受限制的司法管轄權的某一英聯邦法院所進行的婚姻訴訟程序中作出者，或是在就該等訴訟程序的判決所提出的上訴中作出者，須作為該裁斷事實的確認。(由 1985 年第 67 號第 8 條增補)

23. 委員會在研訊中的權力

(1) 為進行第 13 或 22 條的研訊或為進行委員會在其他情況覺得適宜對有關專業所涉的任何事項的研訊時，委員會在符合第 (4) 款的規定下具有以下權力—— (由 1985 年第 67 號第 9 條修訂)

- (a) 聆聽、收取與審查經宣誓的證供；
- (b) 傳召某人出席研訊作證或出示其管有的文件或其他物件，並向該人(作為證人)作出訊問或要求該人出示其管有的文件或其他物件；
- (c) 准許或不准公眾或任何個別公眾人士在研訊時在場；(由 1985 年第 67 號第 9 條增補)
- (d) 准許或不准新聞界在研訊時在場；及 (由 1985 年第 67 號第 9 條增補)
- (e) 判給任何被傳召出席研訊的人一筆或多於一筆款項，該等款項為委員會認為該人因出席研訊而已合理支出者。(由 1985 年第 67 號第 9 條增補)

(2) 根據第 (1) 款發出的傳票須採用訂明的表格，並須由委員會秘書簽署。

(3) 在符合第 (4) 款的規定下，任何人——

- (a) 根據第 (1) 款被傳召在研訊中出席作證或出示其管有的文件或其他物件，拒絕或忽略照辦；或
- (b) 作為證人而根據第 (1) 款接受委員會訊問或在委員會席前接受訊問時，對於委員會向他提出或經委員會同意而向他提出的問題，拒絕作答或忽略作答，或在被要求出示其管有的文件或其他物件時，拒絕或忽略照辦。(由 1997 年第 80 號第 102 條修訂)

即屬犯罪。

(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 High Court.

(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. Provisions relating to decisions and orders of boards

(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. (*Amended 67 of 1985 s. 10*)

(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 against the decision in accordance with section 25 or while the appeal awaits determination by the Court of Appeal.

☆ 25. Appeals to Court of Appeal

(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. (*Amended 67 of 1985 s. 11*)

(2) The decision of the Court of Appeal shall be final.

(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 Supreme 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. (*Amended 67 of 1985 s. 11*)

(4) 即使第(3)款另有規定，在委員會席前作為證人的人，就所作的證供及出示文件或其他物件等方面，均享有如在高等法院就民事訴訟而出庭作為證人的人會享有的同樣的特權。

(5) 任何人如其行為是研訊的標的，或被研訊的標的物所牽連或牽涉，即有權在研訊中由大律師或律師代表。

(6) 任何人——

(a) 對委員會或在委員會面前，行為有侮辱成分或使用任何帶有辱罵、恐嚇或侮辱性的詞句；或

(b) 故意擾亂委員會的法律程序，即屬犯罪。

☆ 24. 關於委員會的決定及命令的條文

(1) 委員會的秘書須安排將委員會根據第 13(3) 條作出的任何決定的一份文本或委員會根據第 22 條作出的任何命令的一份文本立即送達有關的人。 (*由 1985 年第 67 號第 10 條修訂*)

(2) 根據第 22(1) 條由委員會作出的命令，在該命令所涉的人仍有權按照第 25 條針對決定提出上訴，或上訴有待上訴法院裁定時，不得生效。

☆ 25. 向上訴法院提出上訴

(1) 如任何人的註冊申請根據第 13(3) 條被拒絕或任何獲註冊的人對根據第 22(1) 條就其作出的命令感到受屈，則該人可向上訴法院提出上訴，而上訴法院隨即可維持、推翻或更改該決定或上訴所針對的命令。 (*由 1985 年第 67 號第 11 條修訂*)

(2) 上訴法院的決定即為最終決定。

(3) 上訴法院可就訟費的繳付作出其認為合理的命令。

(4) 在符合第(5)款的規定下，與上訴有關的訴訟常規，須受根據《最高法院條例》(第 4 章)訂立的任何法院規則所規管。

(5) 即使第(4)款另有規定，除非在向申請人送達委員會的決定的 1 個月內或根據第 24 條向申請人送達命令的 1 個月內(視屬何情況而定)，已有上訴通知提出，否則上訴法院不得聆訊就委員會根據第 13(3) 條作出的決定或根據第 22(1) 條作出的命令而提出的上訴。 (*由 1985 年第 67 號第 11 條修訂*)

PART VI

第 VI 部

GENERAL

一般條文

26. Boards may prepare Codes of Practice

(1) A board may prepare and revise Codes of Practice which shall not be inconsistent with this Ordinance or any regulations made thereunder for the relevant profession for the purposes of this Ordinance—

- (a) prescribing standards of conduct and practice for persons practising that profession, for the employers of persons practising that profession and the directors of any company carrying on the business of practising that profession;
- (b) regulating the activities of persons practising that profession including the activities of such persons in the supervision and control of unqualified persons assisting such persons in the practice of the profession; and
- (c) regulating the activities of persons—
 - (i) who are required to be supervised in the practice of their profession by regulations made under this Ordinance, in the practice of the profession; and
 - (ii) in the supervision of persons referred to in subparagraph (i), *(Added 70 of 1989 s. 8)*

and the Codes of Practice may prohibit specified activities. *(Amended 70 of 1989 s. 8)*

(1A) Where, under subsection (1), a board—

- (a) prepares a Code of Practice, it shall inform the Council in writing that such a Code of Practice has been prepared and serve a copy thereof on the Council; and
- (b) revises a Code of Practice, it shall inform the Council in writing of any changes made thereto and serve a copy of the revision on the Council. *(Added 70 of 1989 s. 8)*

(1B) Any Code of Practice prepared under subsection (1) or any revision of such a code shall not come into operation until the expiration of—

- (a) the period of 6 months from the date the Council receives a copy of the Code of Practice or, as may be appropriate, any revision of such a code, served pursuant to subsection (1A); or
- (b) such shorter period as may be agreed by the Council and the board concerned. *(Added 70 of 1989 s. 8)*

(2) The secretary of the board shall cause a copy of a Code of Practice and each revision thereof to be served upon each person registered in respect of the profession to which the Code of Practice or revision applies.

26. 委員會可擬備執業守則

(1) 為施行本條例，委員會可為有關的專業擬備及編正與本條例或與根據本條例所訂立的規例不相抵觸的執業守則——

- (a) 為從事該專業的人、從事該專業的人的僱主及任何經營從事該專業的業務的公司的董事訂明操守標準及實務標準；
- (b) 規管從事該專業的人的活動，包括該等人對協助其從事該專業而不具備資格的人的監督及控制的活動；及
- (c) 規管以下活動——
 - (i) 根據本條例所訂立的規例須在接受監督下從事其專業的人在從事該專業時的活動；及
 - (ii) 對第 (i) 節所提述的人進行監督的人在進行該監督時的活動。 *(由 1989 年第 70 號第 8 條增補)*

而執業守則可禁止指明的活動。 *(由 1989 年第 70 號第 8 條修訂)*

(1A) 凡委員會根據第 (1) 款——

- (a) 擬備執業守則，它須以書面通知管理局速明已擬備該執業守則，並將該執業守則一份送達管理局；及
- (b) 編正執業守則，它須以書面通知管理局對該守則作出的任何更改，並將執業守則的編正本一份送達管理局。 *(由 1989 年第 70 號第 8 條增補)*

(1B) 在以下期間屆滿前，任何根據第 (1) 款擬備的執業守則或其編正本均不得實施——

- (a) 由管理局接獲依據第 (1A) 款送達的執業守則或其編正本（視何者適當而定）該日起計 6 個月的期間；或
- (b) 管理局與有關委員會所協定的較短期間。 *(由 1989 年第 70 號第 8 條增補)*

(2) 委員會秘書須安排將執業守則及每次的編正本送達執業守則或其編正本所適用的專業獲註冊的每一個人。

☆ (3) A person, who contravenes any Code of Practice prepared or revised under subsection (1) and applicable to his profession, may be subject to inquiries held by a board; but the fact that any matters are not mentioned in a Code of Practice, shall not preclude the board from judging a person to be guilty of unprofessional conduct by reference to those matters. (Amended 67 of 1985 s. 12; 68 of 1995 s. 35)

27. Penalties

A person who commits an offence under—

- (a) section 12(2), is liable on conviction to a fine of \$5,000 and to imprisonment for 2 years;
- (b) section 14(6) or 14(8), is liable on conviction to a fine of \$500;
- ☆ (c) section 18(2) or 18(3), is liable on conviction to a fine of \$1,000;
- (d) section 19(3), is liable on conviction to a fine of \$2,000 and to imprisonment for 6 months;
- (e) section 20(4), is liable on conviction to a fine of \$5,000 and to imprisonment for 6 months;
- ☆ (f) section 21(1) or 21(2), is liable on conviction to a fine of \$5,000 and to imprisonment for 6 months;
- (g) section 20(5), 23(3) or 23(6), is liable on conviction to a fine of \$500 and to imprisonment for 3 months.

(Amended 67 of 1985 s. 13)

28. Notices

Where any notice or order is required by this Ordinance to be served upon or given to a person by the secretary then it shall be sufficient if it is sent by registered letter addressed to him at his address last known to that secretary. (Amended 68 of 1995 s. 36)

29. Regulations

(1) The Governor in Council may by regulation provide for the fees to be paid in connection with matters within the scope of this Ordinance. (Replaced 80 of 1997 s. 21)

(1A) The Secretary for Health and Welfare may by regulation provide for—

- (a) the duties of any—
 - (i) secretary of a board;
 - (ii) legal adviser to a board;
- (b) the duties of the members and the officers of the Council or any board;

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☆ (3) 任何人違反根據第(1)款擬備或編正面適用於其專業的執業守則，委員會可對其進行傾訊；但如有任何事項在執業守則中沒有提及，亦不得阻止委員會按該等事項而判定某人犯了不專業行為。(由1985年第67號第12條修訂；由1995年第68號第35條修訂)

27. 罰則

任何人——

- (a) 犯第12(2)條所訂的罪行，一經定罪，可處罰款\$5,000及監禁2年；
- (b) 犯第14(6)或14(8)條所訂的罪行，一經定罪，可處罰款\$500；
- ☆ (c) 犯第18(2)或18(3)條所訂的罪行，一經定罪，可處罰款\$1,000；
- (d) 犯第19(3)條所訂的罪行，一經定罪，可處罰款\$2,000及監禁6個月；
- (e) 犯第20(4)條所訂的罪行，一經定罪，可處罰款\$5,000及監禁6個月；
- ☆ (f) 犯第21(1)或21(2)條所訂的罪行，一經定罪，可處罰款\$5,000及監禁6個月；
- (g) 犯第20(5)、23(3)或23(6)條所訂的罪行，一經定罪，可處罰款\$500及監禁3個月。

(由1985年第67號第13條修訂)

28. 通知

凡本條例規定秘書向某人送達或送交通知或命令，則只要將該通知或命令以掛號信件寄往該秘書最後知悉的該人地址致予該人，即已足夠。

(由1995年第68號第36條修訂)

29. 規例

(1) 總督會同行政局可藉訂立規例，對須在與本條例範圍內的事項有關連的情況下繳付的費用作出規定。(由1997年第80號第21條代替)

(1A) 衛生福利司可藉訂立規例就以下事宜訂定條文——

- (a) 以下人士的職責——
 - (i) 委員會的秘書；
 - (ii) 委員會的法律顧問；
- (b) 管理局或任何委員會的成員及人員的職責；