

BERMUDA STATUTORY INSTRUMENT

BR 45/1979

**PHARMACISTS (DISCIPLINARY PROCEDURE) REGULATIONS
1979**

*[made under section 15(1)(c) of the Pharmacy and Poisons Act 1979 and brought into
operation on 1 January 1980]*

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Citation

- 1 These regulations may be cited as the Pharmacists (Disciplinary Procedure) Regulations 1979.

Interpretation

- 2 In these regulations—

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"complainant" means any person who lays a complaint against a registered pharmacist in respect of whom an inquiry is held;

"inquiry" means an inquiry held pursuant to section 7(2) of the Pharmacy and Poisons Act 1979 [*title 11 item 5*]

"the person affected" means the registered pharmacist in respect of whom an inquiry is held.

Notice of enquiry

3 (1) Where the Council have ordered an inquiry to be held, the Chairman shall, not less than twenty-eight days before the day appointed for holding the inquiry, send to the person affected a notice (in these regulations called the "notice of inquiry") specifying generally the matters into which the inquiry will be held, and stating the day, hour and place appointed for holding the inquiry; but if the person affected and the complainant, if any, so agree the period of notice required by this regulation may be reduced to such period as may be agreed.

(2) A notice required by paragraph (1) to be sent to any person shall be sent by registered letter addressed to the registered pharmacist at his address in the Register of Pharmacists, and in the case of any other person at his last known place of abode.

(3) A notice sent to any person in accordance with this regulation may be amended with the consent of the Council or of the Chairman and written notice of the amendment shall be sent to such person in the manner provided by this regulation or otherwise brought to his notice by the Chairman before the inquiry is held or in the course of the inquiry:

Provided that the person affected shall have the right to demand an adjournment of the inquiry if reasonable notice of any amendment materially affecting the particulars of the misconduct alleged in the notice has not been given before the inquiry commenced.

Representations

4 A party to an inquiry may be represented by counsel.

Record of proceedings

5 (1) For purposes of preparing a verbatim record of the inquiry the Council may appoint a stenographer and may employ, in addition thereto, any electronic device they consider necessary.

(2) If a verbatim record of an inquiry, or any part thereof has been prepared, the Chairman on application to him by any party to the proceedings and on payment to him of a fee provided by the Government Fees Regulations shall furnish such party with a copy of that record.

Opening of enquiry

6 (1) At the opening of the inquiry which shall be held in camera the Chairman shall read the notice of inquiry and, if the person affected is not present or represented, satisfy the Council that the notice was duly sent to such person.

(2) If the person affected is neither present nor represented by counsel and the Council are satisfied that the notice of inquiry was duly sent to him, they may proceed with the inquiry in his absence or may adjourn the inquiry.

(3) If the person affected is present at the inquiry the Chairman shall immediately after the allegation contained in the notice of inquiry has been read, inform him of his rights to cross-examine witnesses, to give evidence and to call witnesses on his behalf.

Order of proceedings

7 (1) Subject to the foregoing provisions with respect to nonappearance, the order of proceedings shall be as follows—

- (a) statement of the case against the person affected and production of evidence in support of it;
- (b) statement of the case of the person affected and production of evidence in support of it;
- (c) reply to the case of the person affected:

Provided that, except by leave of the Council, a reply shall not be allowed where the person affected has produced no evidence other than his own.

(2) Evidence may be received by the Council by oral statement or a written and signed statement. A witness shall first be examined by the person producing him, then cross-examined and then re-examined. The Council shall disregard oral evidence given by any person who refuses to submit to cross-examination. They may, in their discretion, decline to admit the written statement of a person who is not present, and shall disregard it if, being present, he refuses to submit to cross-examination.

(3) Members of the Council may put through the Chairman, or on his invitation, such questions as they think desirable.

Adjournment

8 The Council may at any stage of the proceedings adjourn the inquiry to a subsequent hearing of the Council and, where the day, hour and place for such hearing are not appointed at the time of the adjournment, the Chairman shall, not less than twenty-one days before the day appointed, and in the manner specified in regulation 7 give notice to the person affected and to the complainant, if any, of the day,

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hour and place appointed; but if the person affected and the complainant, if any, so agree the notice may be waived or modified.

Resumption

9 When the inquiry is resumed, no fresh evidence shall, except by leave of the Council be produced unless either—

- (a) the substance thereof has, not less than ten days before the resumed hearing, been communicated to the Chairman and to the person against whom it is to be produced; or
- (b) it is in the nature of a reply to any such evidence.

Communication of decision

10 The Chairman shall communicate to the person affected and to the complainant, if any, the decision of the Council and to the Registrar any direction to be acted upon by him.

Validity of later proceedings

11 Where under any of the foregoing provisions of these regulations an inquiry is adjourned from one hearing to another, or a decision or any part of it is postponed to a future hearing, the validity of the proceedings at the later hearing shall not be called into question by reason only that members of the Council who were present at the earlier hearing were not present at a later hearing, or that members of the Council who were present at the later hearing were not present at the earlier hearing.

Evidence

12 The rules of evidence as they relate to any proceedings in a court of law shall not apply to an inquiry.

Regulation of proceedings

13 Subject to these regulations the Council may regulate their own proceedings in any way as seems to the Council to be expedient.