



CONDUCT OF INQUIRIES BY MALDIVES MEDICAL AND DENTAL COUNCIL



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MALDIVES MEDICAL AND DENTAL COUNCIL

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Safiyah
Registrar

CONDUCT OF INQUIRIES BY MALDIVES MEDICAL AND DENTAL COUNCIL

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1. INTRODUCTION

The objective of this guideline is to standardize procedures and processes of inquiries by the Maldives Medical and Dental Council (MMDC) in enforcing the Disciplinary Role of the Council in accordance to the Health Care Professional Act 13/2015.

Any person can lodge a complaint to MMDC established under this Act, on matters concerning the practice of medicine or dentistry or against a health care professional under the jurisdiction of the Council.

If MMDC have reasonable grounds to believe the existence of questionable ethical or professional issues of a doctor or dentist, the Council has the discretion to conduct investigation against such a professional even if a complaint is not lodged at the Council with regard to the matter. Voluntary undertakings will only be used in competence and conduct cases as an intervention to manage any immediate risk of harm or serious harm. Voluntary undertakings will not be available to the public.

2. COMPLAINT

A disciplinary inquiry starts with a complaint or information alleging certain facts against a registered medical or dental practitioner.

Members of the public can lodge valid complaints or concerns about the health, the conduct or the performance of any medical practitioner or dentist working in Maldives. For a complaint or concern to be considered valid, the person lodging the complaint or concern must provide his full name and contact details to the Maldives Medical and Dental Council when lodging the complaint or concern.

Complaints or concerns can be expressed in writing to the Maldives Medical and Dental Council, if twelve weeks have not passed from the date of the grievance. This does not limit investigation of a complaints, if it has been passed by 2/3 majority of the Council that depending on the nature and severity the complaint, shall be investigated.

After making the complaint or expressing the concern, the complainant or concerned party may request a certain degree of anonymity although complete anonymity may not be always possible for legal reasons.

Concerns or complaints expressed about a medical practitioner or dentist shall be recorded in the medical practitioner's or dentist's file and the medical practitioner shall be notified that a complaint or concern has been formally lodged about him or her, within one week of the complaint or concern being lodged.

3. INFORMATION FOR DISCIPLINARY INVESTIGATION

Whenever information is received that a registered practitioner has been guilty of any act or conduct which constitutes of infamous conduct in any professional respect or professional negligence, the registrar shall make an abstract of such information and of such further information as he or she may have subsequently obtained.



The registrar should ensure the identity of the complainant and should confirm the relationship to the injured party if the complainant is acting on the injured party's behalf. The registrar should also ensure the identity of the registered practitioner complained against.

4. PROCEDURE

The abstract and all other documents bearing on the case together with any complaint that may have been lodged shall be submitted to the council by the registrar.

If the facts in issue constitute a 'Disciplinary matter' and the council believes that the complaint or information is 'probably true' then the council hands over the case to the investigation committee for further investigation.

Where a complaint or notification raises questions of competence or conduct, the council shall initially assess whether there is a risk a harm to the public. The Council will take active steps to obtain information to inform a decision on risk.

Risk harm may be indicated by:

- A pattern of practice overtime that suggest the doctor's practice of medicine may not meet the required standard of competence; or
- A signal incident that demonstrates a significant departure from accepted standards of medical practice; or
- An individual patient who may be seriously harmed by the doctor; or
- There is sufficient evidence to suggest that the alleged criminal offending is of such a nature that the doctor poses a risk of harm to the public.

If the complaint received is one that alleges criminal, sexual or drug offending by a doctor, the Council will consider this as a risk of serious harm until evidence can be provided that mitigates this.

Given the purpose and functions of the Council under the Health Professional Act 13/2015, there does not have to be patient harm or an adverse outcome for an action to be taken. It is sufficient for the Council to reasonably believe that there is a risk of harm or of serious harm to the public.



Where such risk is identified, the Council's first consideration will be to effectively manage that risk so as to protect the public. This may include the following actions:

1:-the Council will work collaboratively with the employer to ensure immediate steps to manage any risk are implemented.

2: -The Council may put restrictions on practice or possible ceasing of practice of the practitioner till the case is investigated

In deciding what actions are appropriate for any case, the doctor's scope of practice and the context of his/her working environment should be considered. This means that doctors working in solo practice may have additional restrictions compared to doctors working within a team environment.

The Council then decides for the case to be referred for consideration to the Investigating Committee appointed by the Council to deal with fitness to practice issues and such complaints.

5. INVESTIGATION COMMITTEE

The membership of the Investigation Committee shall consist of members not being less than three to be appointed by the President of the Council. A Chairman amongst them shall also be appointed by the President.

The quorum of the investigating committee shall be two. Vacancies have to be filled as and when the situation arises. It is mandatory to have all the members of a quorum continuously present throughout an inquiry.

Decision on any issue by the committee is by a majority of those present and by voting.

The Committee may if needed call in one or more expert individuals deemed competent by the Council for the investigation of the case. Prior to admitting an expert or an expert's report, the committee shall have to be satisfied that he/she has the appropriate expertise and experience, is familiar with the duties of an expert and there is no actual or potential conflict of interest.

The duty of the expert is to assist the committee on matters that are within his/ her expertise and must maintain neutrality at all times. This duty is paramount and overrides any obligation of the expert to the party who has instructed him/her or by whom he/she is compensated.

A practitioner involved in the management of the patient or working in the same healthcare facility shall not appear as an expert in the disciplinary inquiry.

If an expert report is to be submitted to the council or committee, the report shall give:

- The expert's qualifications



- Details of any literature which the expert witness has relied on in making the report
- A statement setting out the issues
- Where there is a range of opinion on the matters dealt with in the report, summarize the range of opinion and give for his/her opinion.
- A summary of the conclusions reached.

The investigating committee possesses the following powers regarding investigations it conducts:

- Summon the respondent(s) and procure their statements
- Summon persons related to an ongoing investigation and procure their statements
- Procure and examine documents believed to be relevant to an ongoing investigation
- Request for specific information in writing from parties that are capable of assisting in an ongoing investigation
- Depending on the severity of the case, request the council to temporarily suspend the license of a person until the end of the investigation.

6. PROOF OF FACTS

Proof of facts may be by (a) oral evidence, (b) documentary evidence and exhibits, and (c) circumstantial evidence.

(a) Oral Evidence

Oral evidence in all cases must be direct. Details of what a witness saw or experienced, heard or perceives must match the facts in issue alleged to have existed. Examinations, cross examinations and re-examinations are conducted through questions and answers which are contemporaneously tape-recorded. The written statements are made from the recorded versions which will have to be signed.

If it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds e.g. in the case of an expert witness.

(b) Documentary evidence and exhibits

Documents/exhibits produced for the inspection of the investigation committee may include Copies made from the original, counterfoil and carbon copies of documents and oral accounts of the contents of a document given by some person who has himself seen it.



(c) Circumstantial evidence

The essential Issue are:-

- the circumstances from which the conclusion is drawn should be fully established.
- All the facts should be consistent with the hypothesis
- The circumstances should be of a conclusive and tendency;
- The circumstances should be, to moral certainty, actually exclude every hypothesis but the one proposed to be proves.

The investigation committee should come to a decision regarding a case only after giving an opportunity to the respondent to defend himself and to submit the respondent's account of the matter.

7. CONFIDENTIALITY

The entire disciplinary inquiry is confidential, and should be treated as such when handling any documents, recording and communicating with outside parties.

It has to be ensured that deliberations of the committee and council which contain sufficient detailed and rationalization should be considered strictly private and confidential to the committee or Council members only.

8. RECOMMEDATION FOR THE COUNCIL INQUIREY

The report of the investigation and recommendations shall be communicated by the committee to the council and the Council will deliberate on it and make its decision as an independent regulator of the medical profession free of influence from external bodies. The records of the investigation committee must be complete with all documents arranged in sequential proper order.

To maintain fairness and justice to both the complainant and the registered practitioner, it is significant that each and every member of the investigation committee and the Council members consider all relevant facts of the case gathered during inquiry and to identify which among them has been 'proved' or 'disproved' before making a decision.

At the Council level and its role as the 'real' disciplinary authority in determining whether a respondent is guilty or otherwise, it is crucial that each and every member makes individual 'independent' judgement and not 'follow' the views of others. Hence, every



member shall need to state his grounds in detail to support his/her decision.

When investigation committee submits the conclusion of the investigation to the Council, the Council may proceed with the matter in any of the following manner:

- Decide on the case supporting the findings of the committee or
- If the council believes that the facts of the case do not support the findings of the committee, the council may give its own decision on the matter: or
- If there are procedural defects in reaching the decision of the committee send for a review by the same committee; or
- If there are procedural defects in reaching the decision of the committee constitute a new committee to investigate the case.

Council shall compile a report setting the findings of the council even if the investigation was carried by the whole council or if the investigation was carried by a committee.

The report shall contain the following:

- Completed Statements of parties involved in the case
- Details on the complaint
- Evidence considered by the council
- Facts of the case noted by the council,
- Findings of the council
- Decision of the council

Upon completion of a case, the registrar of the Council shall safely maintain the reports together with recordings of the investigation, statements and all documentation regarding the case. The decision of the council shall be expressed to both the complainant and the practitioner *is* involved in writing and shall be implemented.

Any person who believes, that the Council's decision either to take action or not to take against a person, after investigating a complaint submitted, violates his rights or any person who is aggrieved by decision of the council has the right to submit the case to a court of law within 60 (sixty) days effective from the date of decision.

A copy of the report shall be given to the complainant and the respondent.

When on the decision of the Council the name of any registered practitioner is removed from the register, the registrar shall forthwith send notice of such removal to the practitioner as well as the employer.



Any person whose name has been removed from the register may apply to the Council for the restoration of the name, if he thinks that circumstances under which the name was removed from the register no longer remain and the period of punishment has passed. Where the Council is satisfied that the circumstances in which the name of a person was removed from the register no longer exists and, approves of the restoration of the name to the register, the registrar shall restore the name and inform the practitioner and the concerned authorities.

9. DISCIPLINARY PUNISHMENT

The Council may in the exercise of its disciplinary jurisdiction, impose any of the following punishment: -

- order the name of the registered practitioner to be struck off from the Register; or
- order the name of such registered person to be suspended from the Register for such period as it may think fit; or
- order the registered person to be reprimanded.

10. ANNUAL REPORT

The register is required all the disciplinary inquiries within the year for the yearly Annual Report.

In due course, the Maldives Medical and Dental Council will work to strengthen and the streamline its complaints management process.



ANNEXE

MALDIVES AND MEDICAL AND DENTAL COUNCIL

COMPLAINT FORM

This form is for you to make a complaint, in the strictest confidence, about a doctor to the Maldives and Medical and Dental Council. You can use this form to make your own complaint as a medical or dental practitioner or to complain on someone else's behalf.

The Medical and Dental Council is responsible for protecting the public by promoting and ensuring high standards of professional conduct and professional education, training and competence among doctors. The Council's aim is to resolve complaints involving practitioners fairly and effectively. If you are concerned about the conduct or care you have received from a doctor, you have the opportunity to make a complaint to the Maldives Medical and Dental Council.

Section 1:

Your Full name

Your address

Your Phone number

Your email address

The patient full name (if you are not the patient)

Age of the patient

The patient gender: Male Female

If you are the patient please skip to section 2. If you are not the patient, please complete the following questions:

Describe your relationship with the patient, if you are not the patient

Employer

Employee

Colleague

Relative

Patients Lawyer

Other (Please specify)



The patient's Address

Section 2: DETAILS OF THE DOCTOR(S) YOU ARE COMPLAINING ABOUT

Please give us the full name(s) of any doctor(s) you are complaining about, together with their work address, if you know it, or the address where the patient saw the doctor(s) (please continue on a separate sheet if there are more than two doctors). Every doctor has a registration number. It would be of assistance if you could include this number on the form.

(Doctor 1)

The doctor's name

The doctor's registration number (if Known)

Address (if known)

(Doctor 2, if any)

The doctor's name

The doctor's registration number (if Known)

Address (if known)

Section 3: DESCRIPTION OF YOUR COMPLAINT

Please describe your complaint as fully as possible. Explain exactly what happened, where it happened and when it happened (please use dates if Possible). If there is more than one doctor in your complaint, please explain how each doctor was involved. If you are completing this form by hand please write clearly and if possible, please use block capitals. Alternatively, please provide details of your complaint on a separate typed sheet and attach it to this form.

Please tick here if you provided your complaint on a separate sheet



Section 4 DOCUMENTS

If you have any documents, such as letters or medical records that might support your complaint, please enclose copies and list them here. If you ask us to, we will return any documents you send to us once we have copied them.

Section 5: WITNESS

Did anyone else see or hear the things that you are complaining about? If so, please give us their names and explain how each person involved.

Section 6: OTHER ORGANISATION

If you have made a complaint about this to any other organizations it would be helpful if you would complete the section below.

Please note that the Maldives Medical and Dental Council's consideration of a complaint is independent to any other body or organization and your complaint will be considered by the Council on its own merits.

Have you made a complaint about this to any other organization?

YES

NO



If you have complained to another organization please say which organizations you have complained to.

If you complained to another organization, please give brief details of what happened to your complaint and send us copies of any corresponding between you and them.

I declare that all information I have given in this form is, to the best of my knowledge, complete and accurate.

Signature

Date

Section 7: MEDICAL REOCORDS AND CONSENT

To consider your complaint we may need to obtain copies of your medical records *or*, if you are not the patient, the patient's medical records. To do this we would be grateful if the patient concerned could sign the below consent section of the form, before submitting the complaint to the Maldives Medical and Dental Council to ensure efficiency in processing the complaint.

We may not need copies of the medical records but, if we do, it will save time if you give us your consent at this stage.

In order to obtain these records, we need you to tell us the name(s) of the hospital the records the relate to the matter being complained about.

Organization's name where records are held



PATIENTS CONSENT

I give permission for the Maldives Medical and Dental Council to obtain copies of my medical records for the period the Maldives Medical and Dental Council considers relevant to the complaint, and to use as appropriate in investigating my complaint.

Please note that if necessary, the council can issue a direction compelling the release of medical records.

Signature

Date

