
 S T A T U T O R Y I N S T R U M E N T S

1980 No. 860

MEDICAL PROFESSION

**The General Medical Council (Fraud or Error in relation to
Registration) Rules Order of Council 1980**

<i>Made - - - -</i>	<i>23rd June 1980</i>
<i>Laid before Parliament</i>	<i>1st July 1980</i>
<i>Coming into Operation</i>	<i>1st August 1980</i>

At the Council Chamber, Whitehall, the 23rd day of June 1980

By the Lords of Her Majesty's Most Honourable Privy Council

Whereas in pursuance of paragraph 6 of Schedule 4 to the Medical Act 1978(a), the General Medical Council have made the General Medical Council (Fraud or Error in relation to Registration) Rules 1980.

And whereas by sub-paragraph (2) of the said paragraph 6 and sub-paragraph (5) of paragraph 1 of the said Schedule such Rules shall not come into force until approved by Order of the Privy Council:

Now, therefore, Their Lordships, having taken the said Rules into consideration, are pleased to approve the same as set out in the Appendix to this Order.

This Order may be cited as the General Medical Council (Fraud or Error in relation to Registration) Rules Order of Council 1980, and shall come into operation on 1st August 1980.

N. E. Leigh,
Clerk of the Privy Council.

APPENDIX

**THE GENERAL MEDICAL COUNCIL (FRAUD OR ERROR
IN RELATION TO REGISTRATION) RULES 1980**

The General Medical Council, in exercise of their powers under paragraph 6 of Schedule 4 to the Medical Act 1978, and after consulting with such bodies representing medical practitioners as appeared to the Council to be requisite, as required by that paragraph, hereby make the following rules:—

Citation and Commencement

1. These rules may be cited as the General Medical Council (Fraud or Error in relation to Registration) Rules 1980 and shall come into operation on 1st August 1980.

Interpretation

2. In these rules, unless the context otherwise requires:—

“the Act” means the Medical Act 1978;

“the Committee” means the Registration Committee constituted under paragraph 7 of Schedule 1 to the Act by Standing Orders made under paragraph 8 of that Schedule;

“the Council” means the General Medical Council;

“the practitioner” in relation to proceedings under these rules means a person whose registration under the Medical Acts has been called in question;

“the President” means the President of the Council;

“the Register”, in relation to fully or provisionally registered persons, means the Register of Medical Practitioners and, in relation to persons holding limited registration, means the Register of Medical Practitioners with Limited Registration;

“the Registrar” means the Registrar of the Council;

“the Solicitor” means any Solicitor, or any firm of Solicitors appointed by the Council, or any member of such a firm.

Delegation of powers of Council to Registration Committee

3. The powers of the Council under section 10(1) of the Act, if satisfied that any entry in the Register has been fraudulently procured or incorrectly made, to direct that the entry shall be erased from the Register shall be delegated to and exercised by the Committee in accordance with these rules.

Time and place and manner of meetings of the Committee

4. The provisions of the Schedule to these rules shall have effect as to the times and places and manner of meetings of the Committee for the purpose of proceedings under these rules and the mode of summoning the members and the validity of its proceedings.

Procedure where an entry appears to have been incorrectly made but not fraudulently procured

5—(1) Where it appears to the Registrar that an entry in the Register has been incorrectly made but not fraudulently procured the Registrar shall write to the practitioner to whom the entry relates:

(a) notifying him of the ground on which it appears that the entry was incorrectly made;

(b) informing him that the matter will be referred to the Registration Committee and of the date of the next meeting of that Committee; and

(c) inviting him to forward any observations which he may wish to offer.

(2) Subject to the foregoing paragraph the Registrar shall refer the case to the Registration Committee with any observations received from the practitioner, provided that no case may be considered by the Committee until the practitioner has been allowed not less than 28 days to forward his observations.

(3) The Registrar shall place before the Committee a statement of the case, including copies of the letter sent to the practitioner and of any observations received from him.

(4) Before reaching a decision on the case the Committee may if they think fit cause further investigations to be made and request further information from the Registrar or from the practitioner.

Erasure and notification of decision where an entry incorrectly made

6—(1) Subject to the foregoing rule the Committee shall consider and determine whether the entry was incorrectly made. If the Committee so determine they shall then consider whether to direct that the entry shall be erased from the Register.

(2) The Registrar shall notify the practitioner of the decision of the Committee and, where the Committee have directed erasure, shall do so in the manner required by section 10(2) of the Act.

Procedure where an entry is alleged to have been fraudulently procured

7. Where it appears to the Registrar that a question arises whether an entry in the Register has been fraudulently procured the Registrar shall, after making such inquiries if any as he thinks fit, submit the matter to the President who shall decide whether:

- (a) the matter should be investigated under rules 8 to 24 of these rules; or
- (b) the matter should be dealt with solely on the basis that the entry was incorrectly made in which case rules 5 and 6 shall apply; or
- (c) the matter need not proceed further.

8. If the President decides that the matter should be investigated on the basis that the entry was fraudulently procured, he shall determine what persons, if any, apart from the person to whom the entry purports to relate ought to be afforded an opportunity of furnishing observations on the matter and of taking part in any subsequent inquiry. The person to whom the entry purports to relate and any other person or persons determined by the President as aforesaid shall then be deemed to be a respondent for the purpose of proceedings under these rules.

9—(1) The President shall then direct the Registrar to write to each respondent:—

- (a) notifying him of the matters which appear to raise a question whether an entry in the Register has been fraudulently procured;
- (b) inviting him to submit to the Council in writing within 28 days or such further period as the President may allow any observations which he may wish to offer.

(2) Notwithstanding the foregoing paragraph, if any respondent has already offered his observations in writing on the matters in question, or if the President is satisfied that that respondent has already been offered a sufficient opportunity of offering his observations, the President, if he thinks fit, need not direct the Registrar again to invite the observations of that respondent under the foregoing paragraph.

10. Subject to the foregoing rule, and after considering any observations received, the President may direct the Registrar to refer the matter to the Committee.

Notification of time and place of inquiry

11—(1) The Registrar shall then write to each respondent:—

- (a) stating the day, time and place at which the Committee will inquire into the matter;
- (b) specifying the matters into which the inquiry will be held; and
- (c) requesting each respondent to state whether he intends to appear or to be represented at the inquiry.

(2) Except with the agreement of the respondents the inquiry shall not be fixed for any day earlier than 28 days from the despatch of the notification required by the foregoing paragraph.

(3) A copy of these rules shall be sent with each such notification.

(4) Notification under this rule shall be sent by registered post or by the recorded delivery service to the last known address of each respondent.

Provision of legal advice for Committee

12. The Registrar shall arrange for the presence at any inquiry by the Committee under these rules of a barrister, advocate or solicitor appointed by the Council for the purpose of advising the Committee on any question of law arising during the inquiry.

Legal representation

13—(a) Each respondent may be present and may be represented by Counsel or Solicitor or by any officer of any organisation of which he is a member or by any member of his family.

(b) The Solicitor to the Council may instruct Counsel.

Procedure at inquiry

14. If any respondent is neither present nor represented the Chairman of the Committee shall call upon the Solicitor to satisfy the Committee that the notification required by rule 11 has been received by that respondent. If it does not appear that it has been so received the Committee may nevertheless proceed with the inquiry if they think fit on being satisfied that all reasonable efforts have been made to serve such notification on the respondent.

15 (a) The Solicitor shall present the facts of the case and adduce evidence.

(b) Each respondent may then adduce evidence and address the Committee.

(c) At the close of the evidence for the respondents the Solicitor may with the leave of the Committee adduce evidence to rebut any evidence adduced by a respondent and may address the Committee.

(d) If the Solicitor has addressed the Committee or adduced evidence under the foregoing paragraph each respondent may then address the Committee again.

Decision of Committee

16. On the conclusion of proceedings under the preceding rules the Committee shall consider and determine whether the entry has been proved to their satisfaction to have been fraudulently procured and, if so, they may direct the Registrar to erase the entry from the Register.

17. If the Committee do not determine that the entry has been fraudulently procured but are nevertheless satisfied that it has been incorrectly made the Committee may also direct the Registrar to erase the entry from the Register.

18. In announcing the decision of the Committee the Chairman shall state whether the Committee have found the entry to have been fraudulently procured or have found it to be incorrectly made and whether in either case they have directed that the entry should be erased from the Register.

Adjournment of proceedings

19. The Committee may adjourn any of their proceedings from time to time as they think fit.

Evidence

20. The Committee may receive oral, documentary or other evidence of any fact or matter which appears to them relevant to the case before them;

Provided that, where any fact or matter is tendered as evidence which would not be admissible as such if the proceedings were criminal proceedings in England, the Committee shall not receive it unless, after consultation with the person appointed under Rule 12, they are satisfied that its reception is necessary to the discharge of their duties.

21. The Committee may accept admissions made by any party and may in such case dispense with proof of the matters admitted.

Deliberations of Committee

22. For the purpose of deliberations the Committee may exclude the respondents and their representatives, and the Solicitor.

Notes and transcript of proceedings

23—(1) A shorthand writer shall be appointed by the Registrar to take shorthand notes of proceedings of the Committee under rules 12 to 18.

(2) Any respondent in such proceedings of the Committee shall, on application to the Registrar and on payment of the proper charge, be furnished with a transcript of the shorthand notes of any part of the proceedings at which he was entitled to be present.

Manner of determining questions

24. All questions to be determined by the Committee shall be decided by the votes of the majority of the members present, and if the votes are equal the Chairman shall have a casting vote.

SCHEDULE

1. The Committee shall meet for the purpose of performing functions specified in these rules at such time and place as the President may, with the concurrence of the Chairman of the Committee, determine.
2. Members of the Committee shall be summoned to meetings by the Registrar, by notice addressed to each member.
3. The validity of the proceedings of the Committee shall not be affected by any vacancy among the members thereof or by any defect in the appointment or election of a member thereof.
4. The Committee shall meet in private.

Given under the official seal of the General Medical Council this twenty-second day of May nineteen hundred and eighty.

(L.S.)

Richardson,
President.

EXPLANATORY NOTE

(This Note is not part of the Order.)

The Rules approved by this Order provide for the delegation by the General Medical Council to their Registration Committee of their functions under Section 10 of the Medical Act in relation to fraud or error in relation to registration; for the times and places of the meetings of the Committee; and for the discharge of those functions by the Committee. The Rules effectively replace with some amendments Rules 34 to 42 of the General Medical Council Disciplinary Committee (Procedure) Rules 1970, which have ceased to have effect in consequence of provisions of the Medical Act 1978.