

LEGAL NOTICE NO. 8

REPUBLIC OF TRINIDAD AND TOBAGO

THE REGIONAL HEALTH AUTHORITIES ACT, 1994

REGULATIONS

MADE BY THE MINISTER UNDER SECTION 35 OF THE REGIONAL HEALTH
AUTHORITIES ACT

THE REGIONAL HEALTH AUTHORITIES (CONDUCT)
REGULATIONS, 2008

1. These Regulations may be cited as the Regional Health Citation
Authorities (Conduct) Regulations, 2008.

2. In these Regulations—

Interpretation

“Act” means the Regional Health Authorities Act;

Act No. 5 of
1994

“Authority” means a Regional Health Authority established
under section 4 of the Act;

“Board” means a Board of Directors constituted under section 7
and the Second Schedule of the Act;

“Chief Executive Officer” means a Chief Executive Officer
appointed under section 10 of the Act;

“employee” means a member of the administrative, technical,
professional and other ancilliary and support staff of the
Authority other than a daily rated worker;

“staff association” means an association or organization
comprising at least thirty (30) employees whose main
purpose is to seek the interest of its members in relation to
their work in the Authority;

“union” means an association or organization registered as a
trade union under the Trade Union Act.

Chap. 88:02

3. An employee shall—

General
conduct and
duties

(a) conduct himself so as not to bring the Authority into
disrepute;

(b) discharge the duties of his office and any other related duties
that the Chief Executive Officer or other duly authorized
officer requires him to perform;

- (c) be courteous and polite to both members of staff and the public in the discharge of his duties; and
- (d) not wilfully refuse or omit to perform his duties.

Absence with-
out leave

4. An employee shall—
- (a) not be absent from duty without leave or reasonable excuse;
 - (b) when leaving the country inform the Chief Executive Officer in writing; and
 - (c) in cases of emergency, report his intention to leave the country to his supervisor or any other senior officer who shall report forthwith, in writing, to the Chief Executive Officer.

Activities
outside the
Authority

5. (1) An employee shall not—
- (a) engage in any activity which would in any way tend to impair his usefulness as an employee; or
 - (b) engage in any occupation or undertaking which is in conflict with the interest of the Authority or is inconsistent with his position as an employee.

(2) An employee who wishes to engage in any of the activities that are described in subregulation (1) shall apply to the Chief Executive Officer for approval to engage in such activity within sixty days of the coming into operation of these Regulations.

(3) The Chief Executive Officer shall notify the employee of his decision within thirty (30) days of receipt of the application.

(4) Where the Chief Executive Officer rejects the application he shall notify the employee of the reasons for his rejection.

(5) Where the Chief Executive Officer fails to respond within thirty (30) days, the employee may engage in the proposed activity until he is otherwise notified.

(6) An employee who is aggrieved by the decision of the Chief Executive Officer may appeal to the Board, who shall review the decision.

Employee not
to call public
meeting or
participate in
certain public
meetings

6. (1) An employee shall not call a public meeting to consider any action of the Authority or actively participate in the proceedings of a meeting called for such a purpose or procure signatures to any public petition regarding the actions of the Authority.

(2) Nothing in these Regulations shall affect an employee's right to participate actively in any meeting called, or sign any petition prepared by the union or staff association on matters with which the union or staff association is competent to deal.

7. (1) An employee shall not—

(a) make public or communicate to the Press or to an individual;

or

(b) make private copies of,

documents, papers or information of which he may have become possessed in his official capacity, unless he is required to do so in the performance of his duties.

Employee not to publish information

(2) An employee who contravenes subregulation (1), shall be guilty of misconduct notwithstanding any offence relating to official secrets with which he may be charged under any other written law.

8. An employee shall not allow himself to be interviewed on questions of public policy or on matters affecting the Authority unless it is required in the performance of his official duties or where approval is granted by the Chief Executive Officer or other duly authorized officer.

Employee not to allow interview on questions of public policy

9. (1) An employee shall not respond to questions of public policy in a manner that could reasonably be construed as criticism and which may call into question his ability to impartially implement, administer or advise on Government policy.

Employee not to publish comment on national or local issue

(2) Subregulation (1) shall not apply to an employee acting in his capacity as a representative of a recognized association or union.

(3) Where an employee has doubt as to the propriety of any proposed publication or broadcast, he shall refer the matter to the Chief Executive Officer.

10. An employee shall not, except in the case of the official organs of staff associations or professional associations—

(a) act as editor of;

(b) participate in the management of; or

(c) contribute anonymously to,

any newspaper, statement or article which may reasonably be regarded as a commentary of the politics of the country or the administration of the Authority, without written permission of the Board.

Employee not to contribute to, edit or manage newspaper

11. (1) An employee shall not receive payment for the preparation or delivery of a lecture, talk or broadcast which was done in pursuance of his duties.

Lectures, talks or broadcast

(2) An employee who is knowledgeable in a particular subject, whether or not he is specialized in that subject in his official capacity, may give a lecture, talk or broadcast that is not necessary for departmental purposes.

(3) The Chief Executive Officer shall ensure that—

(a) the lecture, talk or broadcast does not have anything contrary to the public interest or inconsistent with the status of the employee; and

(b) the standing of the employee is sufficient to justify the delivery of the lecture, talk or broadcast under his departmental title,

where the subject matter of the lecture, talk or broadcast referred to in subregulation (2) is related to the work of the employee's department or the employee's departmental title is to be announced.

(4) An employee shall make private arrangements for remuneration for any lecture, talk or broadcast referred to in subregulations (2) and (3) and each lecture, talk or broadcast shall be prepared and delivered outside of official hours.

Indebtedness

12. An employee—

(a) shall not become indebted to the extent that it has brought or is likely to bring the Authority into disrepute;

(b) who is so indebted, whether to the Authority or to any other person or institution, shall submit a full statement of his indebtedness to the Chief Executive Officer; and

(c) shall make arrangements for the repayment of any debt.

Bankruptcy

13. An employee against whom bankruptcy proceedings has been taken, who has become insolvent, or who has been declared bankrupt, shall report the matter to the Board within seven days of the date on which he has notice of this fact.

Employee not to solicit intervention

14. An employee shall not solicit the intervention or influence of members of Parliament, Ministers, members of the Board or prominent members of the community to support or advance his individual interest in the Authority.

Employee not to accept gift or reward

15. (1) An employee shall not accept any gift or reward from any member of the public or from any organization for services rendered in the course of his official duties, except with the permission of the Board.

(2) Notwithstanding subregulation (1), an employee may accept a gift or reward offered by—

- (a) a representative of a foreign government on the occasion of an official visit;
- (b) a community organization for the work or achievement of that organization; or
- (c) other employees on a social or celebratory occasion.

16. An employee who is offered a bribe shall immediately inform the Chief Executive Officer, who shall report the matter to the police and advise the Board. Bribery to be reported

17. An employee who desires to initiate legal proceedings on his own behalf against another employee or against a member of the public, with respect to any matter which arose out of, or in the course of the execution of his duty, shall inform the Chief Executive Officer before he proceeds to do so. Initiation of legal proceedings

18. (1) An employee who is charged with a criminal offence which carries a penalty of imprisonment shall report the matter to the Chief Executive Officer without delay. Employee to report criminal charge

(2) The Chief Executive Officer shall advise the Board of this fact forthwith.

MISCONDUCT

19. (1) An employee may be found guilty of misconduct where he— Misconduct defined
- (a) wilfully refuses or omits to perform his duty;
 - (b) performs his duties negligently;
 - (c) fails to discharge any other related duty which the Chief Executive Officer or other duly authorized officer may call upon him to perform;
 - (d) is absent from duty without leave or reasonable excuse;
 - (e) becomes indebted to the extent that it impairs his efficiency or is likely to bring the Authority into disrepute;
 - (f) fails to report his bankruptcy in accordance with regulation 13;

- (g) fails to report that he has been charged with a criminal offence which carries a penalty of imprisonment in accordance with regulation 18;
 - (h) is inefficient, incompetent or persistently unpunctual for reasons which are within his own control;
 - (i) is unfit for duty through drunkenness or the use of illicit drugs;
 - (j) engages in inappropriate behaviour, obscene or disorderly conduct in the course of his duties;
 - (k) violates any oath or affirmation of his office;
 - (l) uses any property or facility of the Authority for some purpose not connected with his official duties without the necessary approval;
 - (m) engages in any gainful occupation during working hours without the requisite consent;
 - (n) is a full-time student of any school, university or other educational institution without the prior approval of the Board;
 - (o) is a part-time student of any school, university or other educational institution and attends studies during working hours without the approval of the Chief Executive Officer or other duly authorized officer; or
 - (p) contravenes any of the Regulations.
- (2) An employee who without reasonable cause, neglects or fails to produce documents relevant to any proceeding under these Regulations, is guilty of misconduct.

DISCIPLINARY PROCEEDINGS

Instituting
disciplinary
proceedings
for miscon-
duct

20. (1) Where a supervisor or a person acting in that position reasonably believes that an act of misconduct is committed by an employee, he shall report the matter to the Chief Executive Officer.

(2) The Chief Executive Officer shall take a statement from the supervisor and if he is of the opinion that a case of misconduct has been made out against the employee, he shall report the matter to the Board.

(3) Where a criminal offence appears to have been committed by an employee, the Board shall ascertain from the Director of Public Prosecutions whether he contemplates criminal proceedings against the employee, before instituting disciplinary proceedings against the employee.

(4) Where the Director of Public Prosecutions advises that criminal proceedings are contemplated, the Board shall not act under subregulation (2) before the determination of criminal proceedings and the expiration of the time allowed for an appeal.

21. (1) Where an allegation of misconduct is made, the Chief ^{Investigation} Executive Officer shall— _{of allegation}

- (a) in addition to making a report as required under regulation 20(1), inform the employee in writing of the allegation; and
- (b) forthwith refer the matter to a neutral employee to investigate the matter.

(2) The employee referred to in subregulation (1)(b) shall be—

- (a) senior to the employee against whom the allegation has been made; and
- (b) employed by the same Authority.

(3) The investigating officer—

- (a) shall give the employee written notice within three days of his appointment requiring him to give a written explanation concerning the allegation within seven days from the date of receipt of the notice;
- (b) shall require those persons who have direct knowledge of the alleged misconduct to submit written statements to him within seven days;
- (c) shall submit to the Board all original statements, explanations, relevant documents and his report of the investigation within forty-five days of his appointment; and
- (d) may be granted an extension for a period of up to thirty (30) days by the Chief Executive Officer to submit his report.

22. (1) The Board shall decide whether to lay a charge against ^{Charging an} the employee with misconduct after considering the report of the _{employee} investigating officer.

(2) Where the Board decides to lay a charge against an employee, the Board shall give him written notice of the charge together with the particulars of the allegation on which the charge is based, within seven days of its decision.

23. (1) The Board may appoint a disciplinary tribunal to hear and ^{Appointment} determine any charge of misconduct made against an employee. _{of disciplinary tribunal}

(2) The disciplinary tribunal shall consist of—

- (a) one person; or
- (b) an uneven number of persons, being no more than five, three of whom shall be employees of the Authority or members of the Board.

(3) A person appointed to a disciplinary tribunal shall hold an office in a higher grade than that of the employee charged.

- Response to charge 24. (1) An employee who is charged with misconduct shall be requested to admit or deny the charge and give an explanation or factors in mitigation to the disciplinary tribunal or the Board, in writing, within a specified period.
- (2) Where the employee makes an admission of guilt in his explanation under subregulation (1), the Board may determine the penalty to be imposed without further inquiry.
- Hearing 25. There shall be a hearing before the disciplinary tribunal where—
- (a) the employee fails to answer to the charge or give an explanation under regulation 24; or
- (b) the explanation given places facts in issue or does not exculpate him.
- Witnesses 26. (1) An employee who is charged with misconduct shall be allowed to state the name and address of any person that he desires to give evidence at the hearing.
- (2) A person whose evidence is requested by the employee under subregulation (1) shall be—
- (a) required to attend at the hearing where such person is an employee of the Authority; or
- (b) given notice requesting such person's attendance at the hearing of the employee, where that person is not an employee of the Authority.
- Suspension of an employee 27. (1) The Board may direct an employee, in writing, to not report for duty until further notice, where the Board is of the opinion that it is necessary to protect the interest of the public and the reputation of the Authority.
- (2) Notwithstanding subregulation (1), an employee shall continue to receive his basic salary in his substantive position until the determination of the matter.
- (3) The effective date of suspension shall be the date stated by the Board in the notice given under subregulation (1).
- Prohibition from the performance of duty 28. (1) Where—
- (a) disciplinary proceedings; or
- (b) criminal proceedings,
- have been or are to be commenced against an employee and where the Board is of the opinion that the public interest requires that the employee should forthwith cease to perform the functions of his office, the Board shall give him written notice of prohibition.

(2) The effective date of prohibition shall be the date of receipt by the employee of the notification.

(3) An employee who has been prohibited under subregulation (1) shall receive his basic salary in his substantive position until the determination of the matter.

(4) An employee shall be entitled to—

(a) the full remuneration he would have received had he not been prohibited, if he is exonerated from the disciplinary proceedings or criminal proceedings against him; or

(b) such salary as the Board may determine in circumstances where the disciplinary proceedings result in punishment other than dismissal.

(5) An employee who has been prohibited from performing his duty shall not leave the country without the permission of the Board and where he leaves the country without permission he shall be guilty of misconduct.

29. (1) A member of the disciplinary tribunal shall not be entitled to any leave other than sick, maternity, bereavement or paternity leave until a report is made to the Board in accordance with regulation 36. ^{Leave during hearing}

(2) An employee who is charged with misconduct shall not be entitled to any leave other than sick, maternity, bereavement or paternity leave until the determination of the hearing.

30. (1) The disciplinary tribunal shall hear the evidence and find the facts in accordance with the procedure set out in this regulation. ^{Procedure at hearing}

(2) The proceedings of the disciplinary tribunal shall be held in private.

(3) The employee shall be summoned to appear at the hearing and shall be given full opportunity to defend himself.

(4) The evidence in support of the charge shall be presented by an employee of the same Authority as the employee charged and who holds an office in a grade higher than that of the employee charged.

(5) Before the case against the employee is presented, the employee may submit that the facts alleged in the charge are not such as to constitute the offence with which he is charged, and the disciplinary tribunal shall make a report of the submission to the Board for its decision.

(6) At the hearing before a disciplinary tribunal, the employee may conduct his defence in person or may be represented by—

- (a) an employee of his choice who is a member of the Authority;
- (b) his staff association; or
- (c) an attorney-at-law,

and if the employee is represented, the employee or his representative may cross-examine the witnesses called in support of the case against him.

(7) A true record of the proceedings at the hearing of the case shall be taken and a copy of the record shall be made available within seven (7) days after the end of such proceedings.

(8) Nothing in this regulation shall be construed so as to deprive the employee from making a submission at any time, that the facts disclosed in the evidence do not support the charge.

Adjournment 31. The hearing may be adjourned from time to time where it appears to be reasonable, necessary and in the interest of justice.

Hearing in absence of accused employee 32. The hearing may proceed in the absence of an employee charged if he fails to attend two consecutive hearings without giving reasonable excuse to the disciplinary tribunal.

Standard of proof 33. The standard of proof in disciplinary proceedings shall be the standard required in a court of civil law.

Rules of evidence 34. (1) The disciplinary tribunal shall adhere to the rules governing the admissibility of evidence.

(2) The disciplinary tribunal may waive the rules relating to the proof of documents except where a particular document is in issue at the hearing.

(3) Any documentary evidence to be admitted at the hearing shall be submitted to the employee charged at least three (3) days prior to it being admitted.

(4) Any explanation given under regulation 24(1) shall be admissible at the hearing.

Disclosure of report 35. The disciplinary tribunal shall not disclose the contents of its report made under regulation 36 to the employee charged or to any other person not authorized to receive the report.

Disciplinary tribunal to report where evidence insufficient 36. (1) Where the disciplinary tribunal finds that the evidence is insufficient to support the charge, the disciplinary tribunal shall report its findings of fact together with the record of the proceedings to the Board without calling on the employee for his defence.

(2) After the Board receives the report and the record of the proceedings in accordance with subregulation (1), it may within fourteen (14) days, refer the matter back to the disciplinary tribunal for further enquiry or with instructions to dismiss the charge.

37. (1) Where the disciplinary tribunal is of the opinion that the evidence discloses other acts of misconduct, the disciplinary tribunal shall report the matter to the Board. Disciplinary tribunal to report evidence of other misconduct disclosed

(2) Where the Board is of the opinion that the employee should be answerable to the acts of misconduct that were disclosed under subregulation (1), the Board shall inform the employee in writing of any further charge.

(3) The procedure prescribed in these Regulations shall apply in respect of further charges.

38. (1) The disciplinary tribunal shall, within twenty-one (21) days of the conclusion of the matter, report its findings together with its recommendations and a record of the proceedings to the Board. Determination of disciplinary proceedings

(2) The Board shall, after considering the record of the proceedings and the report, approve the recommendation of the disciplinary tribunal.

(3) The Board shall, within fourteen (14) days of receipt of the report, give the employee written notice of—

- (a) the findings of the disciplinary tribunal;
- (b) the penalty imposed on him; and
- (c) his right to apply for a review and of the time specified in regulation 45 for making such application.

39. (1) An employee who is found guilty of a charge of misconduct shall be liable to any of the following penalties: Penalties

- (a) dismissal;
- (b) suspension for a specified period;
- (c) reduction in rank;
- (d) reduction of remuneration;
- (e) deferment of increment;
- (f) stoppage of increment for a specified period;
- (g) reprimand; or
- (h) a fine.

(2) Any fine imposed on an employee under subregulation (1)(g) shall be deducted from his salary in the manner specified by the Board.

40. (1) The Board shall not dismiss or otherwise punish an employee who has been acquitted of a criminal charge in any Court arising out of an act of misconduct. Disciplinary action after acquittal of criminal charge

(2) Notwithstanding subregulation (1), an employee may be punished in respect of another charge arising out of his misconduct where the charge is not substantially the same as that in respect of which he has been acquitted.

Disciplinary
action after
conviction

41. The Board may dismiss or otherwise punish an employee, without the institution of any disciplinary proceedings, in respect of an act of misconduct of which he has been convicted in criminal proceedings in a Court of competent jurisdiction.

Non-payment
of remunera-
tion upon
conviction

42. (1) An employee convicted in any Court of a capital offence shall not be paid any salary or allowance after the date of conviction whether or not the conviction has been appealed.

(2) The Board may dismiss an employee who is convicted of a capital offence notwithstanding that the conviction has been appealed.

REVIEWS

Review of
decisions

43. (1) An employee may apply for a review of any decision of the Board and the disciplinary tribunal made against him.

(2) An application for review under subregulation (1) shall be in writing and the grounds of the application shall be annexed to it.

(3) An employee shall submit an application for review to the Board within fourteen (14) days of the date on which the employee was notified of the decision.

(4) An application posted by registered mail within fourteen (14) days shall be deemed sufficient compliance with subregulation (3).

(5) The Board may entertain an application for review where it is of the opinion that this is just and equitable in the circumstances.

(6) An application for review shall be addressed to the Chief Executive Officer.

(7) The Chief Executive Officer shall send to the Chairman of the Board copies of—

- (a) the application for review;
- (b) the statement of the grounds on which the application for review was made; and
- (c) the report of the disciplinary tribunal submitted in accordance with regulation 36,

within fourteen days of receipt of an application under this regulation.

- (8) The Chief Executive Officer shall—
- (a) be the respondent for the purposes of the review and may appear in person or be represented by a legal or other representative; and
 - (b) send to the Review Board copies of the documents forwarded in accordance with subregulation (7) and any other documents requested by the Review Board.

44. (1) Nothing in regulation 43 shall be construed so as to give a right of review to an employee who is aggrieved on the grounds only that the penalty imposed upon him is unduly severe. Review against penalty only

(2) An employee who is aggrieved on the ground specified in subregulation (1) may apply for a review of the penalty to the Board in the manner prescribed in regulation 43.

45. (1) The Minister shall appoint a Review Board to review the findings of the Board or disciplinary tribunal. Establishment of Review Board

- (2) The Review Board shall consist of—
- (a) a chairman who is an attorney-at-law with at least five years experience; and
 - (b) an even number of persons being not less than two persons and no more than four persons.

(3) The Minister may appoint a person with similar qualifications to act temporarily where the chairman is absent.

46. (1) Subject to these Regulations, the Review Board may regulate its own procedure. Review of proceedings

- (2) The proceedings before the Review Board shall—
- (a) not be by way of a re-hearing; and
 - (b) be heard in private.

47. The Review Board shall set a date for the hearing of the proceedings and shall cause notice thereof to be sent to the Minister, the Board and to the employee at least seven (7) days before the hearing. Notice of date of hearing to be given

48. At the proceedings before the Review Board, the employee shall be entitled to be represented by— Right to be represented

- (a) an attorney-at-law;
- (b) an employee of the Authority, selected by him;
- (c) his union; or
- (d) a member of his staff association.

- Evidence before Review Board 49. The chairman of the Review Board may at any time require the production of documents, records or other papers.
- Review of findings by Board 50. The Review Board may—
 (a) review the findings of the disciplinary tribunal in the absence of the employee whether represented or not, if it appears to be just and proper to do so; and
 (b) adjourn the proceedings from time to time.
- Record of proceedings 51. (1) The Review Board shall record the proceedings of any review in writing and submit a copy of the proceedings together with its recommendations to the Minister at the end of the hearing.
 (2) The application for a review, the statement of the grounds on which such application is based, documents or other papers produced at the hearing and any submissions made by or on behalf of the Chief Executive Officer shall form part of the proceedings.
- Minister to consider recommendations of Review Board and make decision 52. (1) On consideration of the record of proceedings and recommendations submitted by the disciplinary tribunal under regulation 51, the Minister may affirm, annul or vary the findings of the disciplinary tribunal.
 (2) Where the Minister annuls the findings of the disciplinary tribunal the employee shall be exculpated from the charge.
 (3) The Minister shall inform both the Board and the employee of his decision as soon as practical.
 (4) The decision of the Minister shall be final.

Made this 12th day of May, 2008.

J. NARACE
Minister of Health

Laid in the House of Representatives this 18th day of June, 2008.

J. SAMPSON
Clerk of the House

Laid in the Senate this 1st day of July, 2008.

N. JAGGASSAR
Clerk of the Senate