

PART-IX

DISCIPLINARY ACTION AND INQUIRY

31. Falsely claiming to be registered Dental Surgeon/Dental Hygienist /Dental Mechanic (quoted from chapter V of miscellaneous section of dentist Act.) :

If any person whose name is not for the time being entered in the register, falsely represents that it is so entered, or uses in connection with his/her name or title any words or letters reasonably calculated to suggest that his/her name is so entered, necessary action shall be taken against such person in accordance with relevant law applicable in the State.

32. Procedure of complain:-

1. No complaints shall be entertained unless it is in writing signed by the person making it and contains the followings:

- i). the name, description and address of the complainant,
- ii). the name, description and address of the opposite party or parties: as the case may be: as far as could be ascertained,
- iii). the facts relating to the complaint,
- iv) When the cause of action arose,
- v). the grounds or causes of the complaint,
- vi) Documents in support of the complaint, if any-

5. Any anonymous and frivolous complaints shall be rejected.

33. Procedure to be followed in conducting an enquiry:-

(1)Whenever information is received by the Registrar that a Dental Surgeon / Dental Hygienist / Dental Mechanic who is an applicant for registration or whose name has already been registered has been guilty of conduct which prima- facie constitutes infamous conduct in a professional respect, the registrar shall make an abstract of such information.

(2)Where the information in question is in the nature of a complaint by a person or body charging the practitioner with infamous conduct in a professional respect such complaint shall be made in writing addressed to the Registrar and shall state the grounds of complaints and shall be accompanied by one or more declarations as to the facts of the case.

(3)Every declaration must state description and true place of abode of the declarant, and where the fact stated in a declaration is not within the personal

knowledge of the declarant, the source of information and grounds for the belief of the declarant in its truth must be accurately and fully stated.

- (4) The abstract and where a complaint has been lodged the complainant and all other documents bearing on the case, shall be submitted by the Registrar to the President who shall if he thinks fit, instruct the Registrar to ask the Dental Surgeon / Dental Hygienist / Dental Mechanic by means of a registered letter for any explanation he may have to offer. The document including any explanation forwarded by the Dental surgeon shall then be referred to the Executive Committee who shall consider the same and shall have power to cause further investigation to be made and further evidence to be taken and to refer, if necessary to a legal practitioner for his advice and assistance as it shall think fit.
- (5) The inquiry shall be instituted by issue of a notice in writing on behalf of the Executive Committee by the Registrar addressed to the Dental Surgeon / Dental Hygienist / Dental Mechanic. Such notice shall specify the nature and particulars of the charges and the day on which the Executive Committee intends to deal with the case and shall call upon him to answer the charge(s), in writing and to attend before the Executive Committee on that day.
- (6) The notice of inquiry shall be sent three weeks before the date of inquiry by the Registrar.
- (7) In every case in which the Executive Committee resolves that an inquiry shall be instituted and a notice for an inquiry is issued accordingly, the complainant and the Dental Surgeon/Dental Hygienist / Dental Mechanic charged, shall upon request in writing for that purpose signed by him or his legal practitioner, be entitled to be supplied by Registrar with a copy of any declaration, explanation, answer or other document given or sent to the council by or on behalf of the other party, which such other party will be entitled on proper proof to use at the hearing as evidence in support of or in answer to the charge specified in the notice of enquiry.
- (8) Any answer, evidence or statement forwarded or application made by the Dental Surgeon / Dental Hygienist / Dental Mechanic between the date of issue of the notice and day named for hearing of the charge shall be dealt with by the President, in such manner as he shall think fit.
- (9) All material documents, which are to be laid before the Executive Committee, as evidence in regard to the case shall be printed, and copies of each shall be furnished to each member of the Executive Committee before the hearing.

(10) At the hearing of the case by the Executive Committee the complainant and also the Dental Surgeon /Dental Hygienist/Dental Mechanic may be represented or assisted by a legal practitioner.

(11) Where a complainant appears personally or by legal practitioner the order of procedure shall be as follows:-

- (a) The Registrar will read to the Executive committee the notice of the enquiry addressed to the Dental Surgeon / Dental Hygienist / Dental Mechanic. The complainant will then be allowed to state his case by himself or by his legal representative and to produce his proofs in support of it.
- (b) The Dental surgeon /Dental Hygienist / Dental Mechanic will then be allowed to state his case himself or by his legal practitioner and to produce proofs in support of it (if any).
- (c) At the conclusion of the hearing, the Executive Committee will, if the Dental Surgeon / Dental Hygienist / Dental Mechanic have produced evidence, hear the complainant in reply on the case generally, but will hear no further evidence, except in any special case in which the Executive Committee may think it right to receive such further evidence. The complainant will not be heard in reply except by special leave of the Executive Committee.

(12) Where no complainant appears, the order of procedure shall be as follows:-

- (a) The Registrar will read to the Executive Committee the notice of inquiry addressed to the Dentist (Dental Surgeon) / Dental Hygienist/ Dental Mechanic and will state the facts of the case and produce before the Executive Committee the evidence by which it is supported.
 - (b) The Dental Surgeon /Dental Hygienist / Dental Mechanic will then be invited to state his case by himself or his legal representative and to produce his proof in support of it. He may address the Executive committee either before or at the conclusion of his proofs but only once.
- (13) If the charged Dental Surgeon / Dental Hygienist / Dental Mechanic denies or disputes the allegations contained in the complaints, or omits or fails to represent his/her case within the time given, the executive committee shall proceed to adjudicate the complaint.
- (14) The Executive Committee shall fix a date for hearing and intimate the date to the complaint and the opposite party. On the date of hearing it shall be obligatory on both the parties to appear before the Executive committee. Where the complainant fail to appear before the Executive Committee on the day of hearing, the Executive Committee may in its discretion dismiss the

complaint for default on merits. Where the opposite party fails to appear on the date of hearing, the Executive Committee may decide the complaint ex-parte.

- (15) Upon the conclusion of the case, the Executive Committee will deliberate thereon in private, and at conclusion of the deliberations, the President shall call upon the Executive Committee's vote on the question whether the Dentist (Dental Surgeon) / Dental Hygienist / Dental Mechanic charged is guilty of professional misconduct.

34. Disciplinary action including removal of names from the register:

1. If any executive committee by a majority, voting at the meeting find the Dental Surgeon / Dental Hygienist/ Dental Mechanic guilty of any misconduct, the President may direct the Registrar to :-
 - i) register his/her name if he be an applicant for registration,
 - ii) to issue a letter of warning to such Dental Surgeon/ Dental Hygienist / Dental Mechanic,
 - iii) remove from the register for such period as may be specified in the aforesaid direction under Section 41 of the Act: or
 - iv) remove from the register permanently under section 41 of the Act subject to confirmation by the council.

- (2) When the registration of the name of any Dental Surgeon/ Dental Hygienist / Dental Mechanic is refused, or when the name of any Dental surgeon/ Dental Hygienist / Dental Mechanic is removed from the register in accordance with the provisions of the preceding rules, the Registrar shall forthwith send notice of such refusal or removal to the Dental Surgeon /Dental Hygienist / Dental Mechanic and such notice shall be sent by registered letter addressed to the last known address of the Dental Surgeon /Dental Hygienist / Dental Mechanic.

- (3) **Deemed guilty of misconduct:-** A registered Dental Surgeon /Dental Hygienist / Dental Mechanic shall be deemed to be guilty of misconduct if-
 - (a) He/she is convicted by a criminal court for an offence which involved moral turpitude and which is cognizable within the meaning of the Code of Criminal Procedure. 1973 (2 of 1974), or
 - (b) His/her conduct is infamous in relation to the profession of dentistry particularly under Code of Ethics prescribed by the Dental Council of India constituted under the Dentists Act, 1948 (16 of 1948) in this behalf.

- (4) **Enforcing Power of the Executive Committee:-** In holding any inquiry under this rule, the Executive Committee shall have the same powers as are vested in Civil Courts under the Code of Civil procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:-
- (a) Enforcing the attendance of any person, and examining him on oath;
 - (b) Compelling the production of documents.
- (5) All the inquiries under this rule shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code (45 of 1860).
- (6) No court shall take cognizance of any offence punishable under the Dentists Act. 1948 except upon complaint made by order of the government of Arunachal Pradesh or State Council.
- (7) Assessor:-
- (a) For the purpose of advising the Council/Executive Committee on any question of law arising in an inquiry under this Rule, there may be, in all such inquiries an assessor, who has been –
 - (i) An advocate enrolled under the Advocate Act, 1961 and including any period during which he was enrolled as an Advocate under the Indian Bar Council Act. 1926 ; or
 - (ii) An officer with a degree in law and having experience in handling legal matters in any Govt. or Semi Govt. organization.
 - (iii) Preferably an advocate for not less than five years of continuous legal practice.
 - (b) Any assessor under this rule may be engaged either generally, or for any particular inquiry and shall be paid the prescribed remuneration.