



THO Code of Conduct and Grievance Procedure policy

PREAMBLE

The THO Code of Conduct and Grievance Procedure seeks to complement the general guidelines espoused in the Code of Ethics and Behaviour policy of the organisation by providing a clear set down mechanism on how grievances are to be handled at the organisation and the specific offences that are subject to disciplinary action. The THO Code of Conduct and Grievance procedures is therefore a blue print to guide and ensure equality, fairness and just treatment to all our members.

Chapter 1

Offences:

A person who is a member of the THO is guilty of an offence when he / she:-

- a) Without first resigning from the THO, forms an organisation that seeks to parallel and or compete with the THO, its vision, mission, objectives and values.
- b) Engages in a conduct that puts the name of the organisation into disrepute;
- c) Steal from a student or patient;
- d) Abuses in any way a student or patient for any reason relating to her or his duties;
- e) Enters into a physical, romantic or sexual relationship with a patient or student;
- f) Seeks sexual favours as payment for services rendered;
- g) Over charges patients or students;
- h) Does not disclose conflict of interest to a with patient or student in the rendering of their services;
- i) Discloses confidential information about a patient or student to a third party without a reasonable reason;
- j) Solicits bribes and money through fraudulent activities using the name of the organisation;
- k) Refuses to take any lawful instruction from the THO;
- l) Does not disclose /inform patients of treatment charges during consultation or during the first three hours of consultation before the discussion of the treatment details;
- m) Accept gifts in an attempt to motivate healer to do anything that is prohibited by THO policies and other relevant laws;
- n) Sells sicknotes;
- o) Tells patients to pay more for sick notes issued over and above the treatment fees charged;

- p) Fails to maintain accurate records of patients seen;
- q) Maintaining false or fraudulent records;
- r) Uses foul language or exposes patients and students to degrading treatment which diminishes their self esteem and dignity;
- s) Reports to work or uses THO property or assets whilst under the influence of liquor or any illegal substance and drugs;
- t) Terminates treatment of a patient at any stage for unlawful reasons;
- u) Employ minors in violation of the country's laws;
- v) Involves himself or herself in factionalist or divisive behaviour that undermine the unit or coherence of the organisation;
- w) Fails to comply with rules/decisions of conference or disciplinary committee of the THO;
- x) Engages in insolence against other THO members or office bearers;
- y) Does not pay the annual subscriptions fees due to the THO.

CHAPTER 2

Reporting misconduct:

- 1) Members of the THO, THO office bearers and the general public have a right to report any complaint or an infringement of the Code of Conduct and Grievance Procedures policy of the organisation.

CHAPTER 3

Establishment of a Disciplinary Committee:

- 1) The THO shall establish a three member independent disciplinary committee which shall consist of a Chairperson and two assistants. This applies at all levels of the organisation (National, Provincial and District)
- 2) THO shall ensure that all matters referred to the Disciplinary Committee have been investigated by the office and a *prima-facie* case established.
- 3) All reasonable steps shall be taken in ensuring that the DC convenes, tries and decides matters as quickly and timely as possible to ensure justice and fairness
- 4) The THO shall appoint a person who shall sit with the DC only as a Secretariat or ex-officio member.
- 5) Where a matter has been adjudicated at local level the National DC shall perform and have appeal powers.

CHAPTER 4

ONUS OF PROOF:

- 1) The DC shall decide matters on a balance of probability having seen or heard evidence from all parties involved in the dispute.

CHAPTER 5

LAYING A COMPLAINT:

- 2) All complaints against THO members shall be made in writing and forwarded to the THO offices. In return, the THO shall make all efforts to inform the complainant of their own investigation or dates of DC.
- 3) When reporting back to the complainant the THO office shall ensure that it uses a language understandable to the complainant.

CHAPTER 6

PROCEDURES DURING DISCIPLINARY HEARINGS:

- 1) Hearings shall be conducted in local languages and where need be in English. The DC shall ensure that it provides an interpreter where issues of language barrier are anticipated or raised.
- 2) The Chairperson or President and his / her committee members shall be allowed to ask any of the parties any clarity seeking questions or make comments for better understanding during the cause of the hearing.
- 3) The initiator and defendant shall ensure that he brings all his evidence or witnesses during the day of hearing.
- 4) All hearings shall be done during the day
- 5) The Chairperson reserves the right to postpone, defer or reject a complaint on reasonable grounds at the start , middle of a hearing or end.

CHAPTER 7

DECISION OF THE DC:

- 1) The DC shall make and state its decision in writing and deliver its ruling in the presence of the disputing parties within a reasonable time after the close of submissions.
- 2) The DC's decision shall be communicated by the Chairperson or his designated assistant. All findings of the DC shall be accompanied by detailed reasons justifying such decision.

CHAPTER 8

APPEALS:

- 1) The complainant and defendant have a right to appeal a decision of the DC. This shall be done within a period of 30 days of receipt of judgment.
- 2) The aggrieved party shall forward his or her appeal in writing to the THO Board President who shall in turn appoint, from amongst the board members, a three member committee which shall act as the Disciplinary Committee Appeal panel. This committee shall listen to such appeal and present its findings to the board. The President shall then write to the appellant and communicate the decision of the board.

CHAPTER 9

SCHEDULE OF PENALTIES:

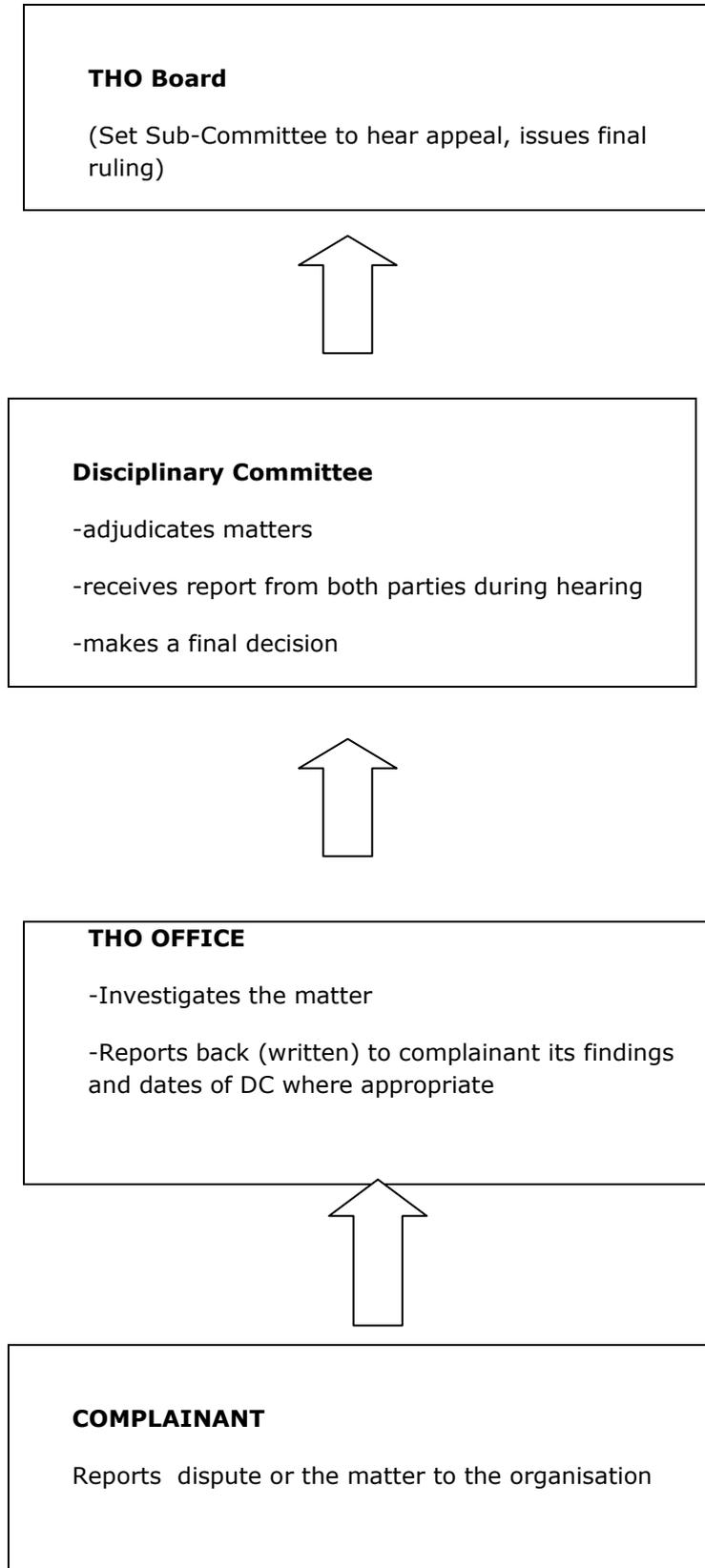
A duly constituted DC of the THO has discretion to impose any of the following penalties after finding a member guilty of any offence:

- 1) A written warning
- 2) An oral / verbal warning
- 3) A suspended sentence
- 4) Community service
- 5) Terminate membership from the THO
- 6) A fine not exceeding R2000
- 7) Repayment or re-imburement of patient treatment fees

IGNORANCE OF RULES

- a) Ignorance of the rules will not be treated as an excuse

STAGES OF DISCIPLINARY PROCEDURES



NOTES FOR THE THO REGION ON HOW TO WRITE A CHARGE SHEET AND WHAT THE DISCIPLINARY COMMITTEE HAS TO KNOW

You can only write a Charge sheet to a person who has committed misconduct after investigation. A charge sheet is a letter explaining the details of the Complaint. Below is some of the information you MUST include:

- Date of hearing, venue
- Explain the parties rights before calling them to a hearing. Both parties have a right to:-
 - Cross examine
 - Bring witnesses
 - Bring evidence
 - Represented by a fellow THO member
- Give both parties at least five (5) working days to prepare for the case
- Ensure that the charge sheet is signed by the defendant as proof of receipt

Detail the **specific charge below:-**

For Example: Mbayimbayi Mgxothe gobela, twasa/student of Nkandla in the Kwazulu-Natal province has been charged with gross misconduct in that ;

- a) You assaulted a patient on 25/12/2010 at or near Mgungundlovu with a fist, kicks.
- b) You overcharged Majola Ntombi by a sum of R500 being money in respect of treatment for an ailment which you never was able to treat.

You are therefore expected to appear before a DC on January 14, 2011 at the THO Head Office in Johannesburg at 09h00 am.

For further information on this matter, kindly contact the undersigned.

Yours in transformation,

Nombuso Makgoba

Department Manager

Tel: 011 533 0000

DC Committee

- 1) Initiator makes his/her submissions, calls witness, gives evidence.
- 2) Chairperson gives defence a chance to ask questions only based on the submissions / evidence made by Initiator.
- 3) The Chairperson gives defence chance to make submissions, lead evidence and bring witness.
- 4) Chairperson allows Initiator to ask questions only based on defence's submission.
- 5) Chairperson allows Initiator to make closing submissions on why the defendant must be found guilty.
- 6) Chairperson allows defence to make closing submissions on why s/he must be found not guilty.
- 7) Chairperson pronounces verdict (guilty or otherwise).
- 8) Chairperson seeks mitigation from defence where guilt is established
- 9) Chairperson allow defence to mitigate.
- 10) Chairperson pronounces sanction and informs parties of their right to appeal within 30 days.

NOTES FOR THE DC WHEN DECIDING CASES

INTRODUCTION

The DC should know that hearings are not a punitive measure but rather a corrective mechanism. Its role is to act as an enquiry more than a court and should ensure that subscribes to the principles of justices, fairness and most of all speedy justice to all. The THO promotes reconciliation. The DC should be satisfied that no other mechanism of dispute resolution other than DC can remedy the situation before deciding on the case.

The DC should also know that all its decisions can be challenged in a court of law hence regard should be given to the constitution of the Republic.

- 1) The DC must treat all cases with objectivity and deal with matters on their merits.
- 2) A membership of the DC must excuse / recuse themselves from matters where there is a possible conflict of interest and must communicate such conflict at the start of the hearing.
- 3) The DC must treat all parties as equals.
- 4) The DC must allow all substantive or procedural objections that may be raised during hearing. The DC has a right to make a ruling on such objections.
- 5) All persons charged with any form of misconduct should be considered innocent until proven otherwise.
- 6) No matter should be decided in the absence of either parties unless there is overwhelming evidence that the other party deliberately absconded from hearing after being informed of the charge and given sufficient time to prepare.

- 7) When imposing sentences the DC must ensure that its sentence is reasonable, just and possible of performance.
- 8) The DC must ensure that similar matters should be treated alike eg: a person who steals and is fined R20 should then set a precedence that all other people who steal will get the same penalty unless there are reasonable grounds to hold otherwise.
- 9) At every start of any hearing the DC must inform the defendant of his or her rights (which include the right to cross examine, to call witnesses etc). Once a judgment has been issued, the DC must then inform the parties ALL the time that they have a right to appeal within 30 days.
- 10) The DC should always take into account mitigating and aggravating factors. A defendant who exhibits remorse, is a first offender, has a record of good behaviour over a long period of time in the organisation, among other things, should be given a lenient sentence.
- 11) Decisions of the DC should be able to deter other would be offenders.
- 12) Only in the most extreme of cases should a member be expelled from the THO.
- 13) The DC has an inherent responsibility of confidentiality when handling disputes.
- 14) Members of the DC are expected to exhibit behaviour that is above reproach during and after hearings.