

The Medical (Amendment) Act 2012 and the Regulations 2017

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FUNCTIONS OF THE COUNCIL

The Medical (Amendment) Act 2012
specifies the MMC's functions which are:

1. To register medical practitioners;
 2. To regulate medical practice.
- **And to make provisions for matters connected thereto.**

Medical Acts & Regulations

The Principal Act

- Medical Act 1971 [Act 50]
- Medical Regulations 1974

The Amended Act

- Medical (Amendment) Act 2012 [Act 1443]
Gazetted 20 Sept 2012
- Medical Regulations 2017
Gazetted 01 July 2017

Infamous Conduct in a Professional Respect

- The phrase ‘**infamous conduct in a professional respect**’ was defined by Justice Lopes L.J in 1894:
- In another judgment, delivered in 1930 Lord Justice Scrutton stated: “Infamous conduct in a professional respect means no more than **serious misconduct** judged according to the rules, written and unwritten, governing the profession.”

Serious Professional Misconduct

- In a judgment of the Lords of the Judicial Committee of the Privy Council delivered on 24th March 1999, adopted the term “**serious professional misconduct.**”

Adoption by MMC

- The Malaysian Medical Council attests to the principle that ‘**serious professional misconduct**’ means a failure to meet the minimum standards of professional practice set by the Council in the *Code of Professional Conduct, guidelines and directives*.
- Degrees of concurrent acts of moral turpitude, dishonesty, or incompetence may determine the severity of punishment.

Serious Professional Misconduct

- The term “**infamous conduct in any professional respect**” is replaced by “**serious professional misconduct**” as stipulated in the Code of Professional Conduct and any other guidelines and directives issued by the Council.
- Med (Amendment) Act 2012 Section 24 (a) (ii) amending sec 29 (b) of Principal Act

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7

INQUIRY –Medical Act 1971 & Regulations 1974

- **Preliminary Investigating Committee**
 - Complainant , Respondent
 - Legal Counsel
- **Council Inquiry**
 - Respondent (with or without Counsel)
 - Complainant (“observe”)

September 4, 18 Med (Amendment) Act 2012 & Regulations 2017

8



DISCIPLINARY PROCEEDINGS

September 4, 18 Med (Amendment) Act 2012 & Regulations 2017

9



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10

DISCIPLINARY JURISDICTION OF THE COUNCIL

Disciplinary jurisdiction over registered medical practitioners is conferred upon the Malaysian Medical Council by Section 24 of the **Medical (Amendment) Act 2012** which reads as follows:

1. The Council shall have disciplinary jurisdiction over all persons registered under this Act.
2. The Council may exercise disciplinary jurisdiction over any registered person who:-
 - a. has been convicted in Malaysia or elsewhere of any offence punishable with imprisonment (whether in itself only or in addition to or in lieu of a fine);

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11

DISCIPLINARY JURISDICTION OF THE COUNCIL

(aa) has had his qualification withdrawn or cancelled by the awarding authority through which it was acquired or by which it was awarded;

- b. has been guilty of **serious professional misconduct**;
- c. has obtained registration by fraud or misrepresentation;
- d. was not at the time of his registration entitled to be registered; or
- e. has since been removed from the register of medical practitioners maintained in any place outside Malaysia.

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12

Section 24: Medical Amendments Act 2012-- Disciplinary Jurisdiction (Section 29 of Principal Act)

- Section 24 (3): The Council shall establish a mechanism including the establishment of a **Disciplinary Panel** to enquire into complaints or information received against a medical practitioner.
- Section 24 (4) ...the Disciplinary Panel means a panel, members of which shall be appointed by the Council from which members of the Preliminary Investigation Committee and the Disciplinary Board shall be drawn.

INQUIRY – Med (Amendment) Act 2012 & Regulations 2017

- DISCIPLINARY PANEL (about 100 members)
- PIC (6-8)
- DISCIPLINARY BOARD (3-4)
- ----- Complaints Management Committee (CMC)

Disciplinary Panel

Section 24 (b) of the Medical (Amendment) Act 2012

“(3) The Council shall establish a mechanism, including the establishment of a Disciplinary Panel, to inquire into complaints or information received against a medical practitioner.

(4) For the purpose of this section, Disciplinary Panel means a panel, members of which shall be appointed by the Council **and from which members of the Preliminary investigation Committee and Disciplinary Board** shall be drawn.”

COMPLAINTS MANAGEMENT COMMITTEE (CMC)

- Regulation 38(2) of the Medical Regulations 2017 provides that the Council will forward complaints/ information against registered medical practitioners to the Preliminary Investigation Committee (PIC).
- In order to carry out this specific role, a **Complaint Management Committee (CMC)**, is established comprising 3 members of the Council.

Preliminary Investigation Committee (PIC)

- Regulation 35 of the Medical Regulations 2017 provides that the membership of the PIC shall be not more than **five** members selected from the Disciplinary Panel and appointed by the Council.
- The quorum of a PIC shall be three.

PIC - Procedure

- The PIC shall :
- (a) notify the registered medical practitioner within thirty days of the receipt of a complaint;
- (b) require the registered medical practitioner to submit a reply within thirty days of receipt of the notification from the PIC; and
- (c) if necessary, request for clarification or further documents from the medical practitioner to be provided within fourteen days of a request by the PIC.

Summary Dismissal of a Complaint or Information

-Regulation 39 Medical Regulations 2017

A PIC may recommend to the Council to summarily dismiss complaint / information if it is satisfied that the said complaint or information falls into any of the following three circumstances under the Regulations.

- (a) Name or address of complainant/informant unknown or untraceable:
- (b) Even if the facts were true, the facts do not constitute a disciplinary n
- (c) For reasons which must be recorded, that there is reason to doubt the truth of the complaint or information

PIC Recommendations to Council

- (a) that no further action be taken; or
- (b) there are grounds for an inquiry be held by a DB.
- (c) to conduct an inquiry if no reply is received from the respondent.

Decision of the Council on PIC Recommendation

The Council may, for reasons to be recorded, after consideration of the **recommendation of the PIC**, either:

- a. summarily dismiss the complaint or information; or
- b. forward the complaint or information together with the recommendations of the PIC to the Council to a duly appointed Disciplinary Board (DB) to conduct an inquiry.

DISCIPLINARY BOARD Regulation 36(1) Medical Regulations 2017

The Disciplinary Board shall consist of the following members who shall be selected from the Disciplinary Panel:

- (a) at least **three** members of the Council;
 - (b) **three fully registered medical practitioners** of at least ten years of good standing with current Annual Practising Certificates; and
 - (c) any person other than in paragraph (a) or (b).
- A Chairman amongst them shall also be appointed by the Council.
 - The quorum shall be five.

Decision by Council

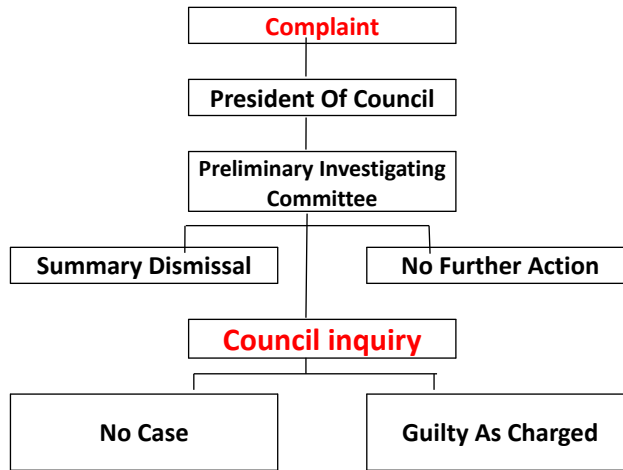
Regulation 45 Medical Regulations 2017

- The Council, upon considering the records and recommendations of the Disciplinary Board, as well as the DB's grounds for its recommendations, may make any one of the following decisions:
 - a. Accept the recommendation of the DB and impose the punishment as recommended by the DB
 - b. Review recommendation of the DB, appoint new DB
 - c. Accept recommendation that no case has been made out against the respondent.

Disciplinary Powers of the Council (1)

Section 30(1) of the Medical Amendment) Act 2012

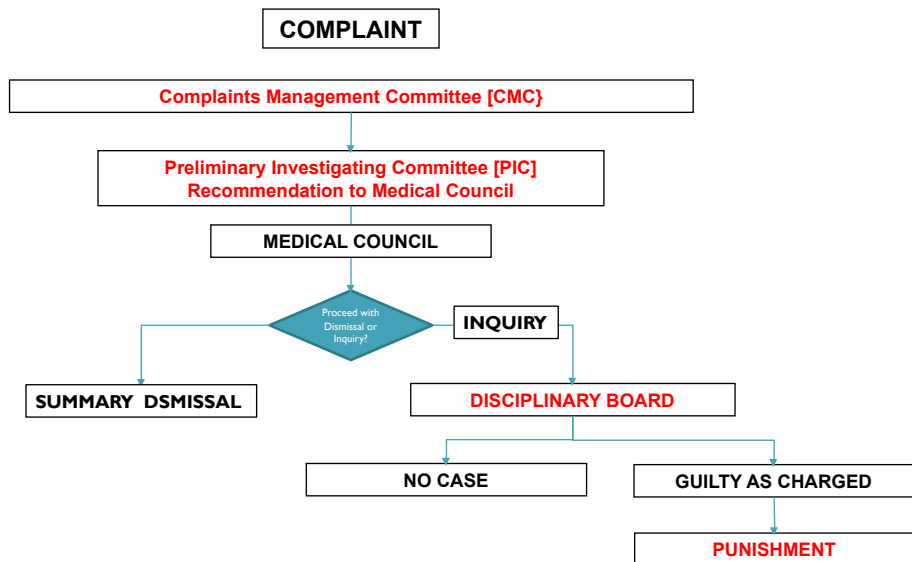
1. the Council may, in the exercise of its disciplinary jurisdiction, impose any of the following **punishments**:
 - (a) reprimand the medical practitioner;
 - (b) order such medical practitioner's registration to be **subjected to conditions** which may include but are not limited to one or more of the following:
 - (i) that the medical practitioner seek medical treatment;
 - (ii) that such conditions relating to the medical practitioner 's practice of medicine as it considers appropriate be imposed on the medical practitioner's registration;
 - (iii) that the medical practitioner undergo educational courses or programmes as may be specified by the Council; or
 - (iv) that the medical practitioner report on his medical practice to such medical practitioner or persons as may be specified by the Council



**DISCIPLINARY PROCEDURE
Med Act 1971 & Regulations 1974**

September 4, 18 Med (Amendment) Act 2012 & Regulations 2017

25



**[NEW] DISCIPLINARY PROCEDURE
Medical (Amendment) Act 2012/ Regulations 2017**

September 4, 18 Med (Amendment) Act 2012 & Regulations 2017

26

Disciplinary Powers of the Council (2)

(c) order the name of such medical practitioner to be suspended from the Register for such period as it thinks fit;

(d) make such order in paragraph (c) but suspend the application thereof, subject to such conditions as the Council may think fit, for a period, or periods in the aggregate, not exceeding two years; or

(e) order the name of such medical practitioner to be struck off the Register.

- (2) The Council may also impose a **fine** as may be decided by the Council in addition to the punishments in subsection (1).

Two Types of Inquiries

- Complaints received **before** 1st July 2017, as well as ongoing inquiries of such complaints, are subject to procedure as in Medical Act 1971 and Regulations 1974.
- Complaints received **after** 1st July 2017 are subject to procedures as in Medical (Amendment) Act 2012 and Regulations 2017.

Appeal against Interim Order

Section 27 of the Medical (Amendment) Act 2012

- (1) Any person who is aggrieved by any order made in respect of him by the Council in the exercise of its disciplinary jurisdiction may appeal to the High Court, and the High Court may thereupon, affirm, reverse or vary the order appealed against or may give direction in the matter as it thinks proper, the cost of the appeal shall be in the discretion of the High Court.
- (2) The practice in relation to any such appeal shall be subject to the rules of court applicable in the High Court.

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Appeal against decision of Council

- 27. Section 31 of the principal Act is amended by deleting subsection (2).
- Subsection (2) The decision of the High Court upon such appeal shall be final.

[Meaning: MMC can take to Appeal Court any decision favouring the appellant = the respondent - in the High Court]

Interim Orders

Medical (Amendment) Act 2012. s 29A

- (1) Where upon due inquiry into any complaint or information referred to it, a Disciplinary board is satisfied that it is necessary **for the protection of the members of the public** or it is otherwise in the **public interest**,
- or it is in the interest of a registered medical practitioner for his registration to be suspended or to be made subject to conditions, the board may make an order —

INTERIM ORDER

- In instances where such interim order is necessary to protect members of the public (as the normal process of inquiry may take months) from a practitioner being investigated for a serious complaint.
- Disciplinary Board may impose one of 2 types of interim orders on RMPs —
 - interim suspension order - <12 months; or
 - interim restricted practice - <12 months
 - **Provisions for to Appeal by RMP so ordered to Minister whose decision shall be final..**

CORPORATISATION OF MMC

- MMC - established as a body corporate under the Act.
- Since 1971, MMC has been under the administration of MOH (in terms of monetary funding, secretariat and staffing).
- Amendment to the Act expresses MMC's intention to fully function as a body corporate and to be able to manage its own funds, staff and operations.

Establishment of the Council –

Medical (Amendment) Act 2012

- 3(1) A body corporate by the name Malaysian Medical Council is established;
 - (2) The Council shall have a perpetual succession and a common seal;
 - (3) The Council may sue and be sued in its corporate name.

Malaysian Medical Council Fund

section 4H of Medical (Amendment) Act 2012

(1) A Fund to be known as the “Malaysian Medical Council Fund” to be controlled and administered by the Council shall be established.

(2) The Fund shall consist of –

- (a) **such sums as may be provided by the Government for the purpose of this Act from time to time;**
- (b) all fees and charges imposed by or payable to the Council in accordance with this Act;
- (c) all moneys earned from services provided by the Council in accordance with this Act;
- (d) All moneys derived as income from investment by the Council;
- (e) all moneys derived from the sale, disposal, lease or hire, or any property, mortgage charges or debentures vested in, or acquired by, the Council;
- (f) all other moneys and property which may in any manner become payable to or vested in the Council incidental to its functions and powers; and
- (g) all other moneys lawfully received by the Council under this Act, including interest

Standing Committees of the Malaysian Medical Council

Committees of Council

- Medical Education Committee
 - Evaluation Committee (Primary & Specialist)
 - Fitness to Practice Committee
 - Ethics Committee
 - Medical Qualifying Committee
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- Specialist Registration Committee
 - Accreditation Committee (Primary Medical Education)

Medical Education Committee (I)

The **Education Committee** shall make recommendations to the Council to:

- for
- (a) determine the extent of the **knowledge and skill** which is to be required the granting of recognition of **primary medical qualifications** and secure that the instruction given in or under the direction of bodies or combinations of bodies to persons studying for such qualifications is sufficient to equip them with knowledge and skill of that extent;
- (b) determine the **standard of proficiency** which is to be required from candidates at **qualifying examinations** and secure the maintenance of that standard;

Medical Education Committee (2)

- (c) discharge their functions in respect of programmes for **provisionally registered medical practitioners**;
- (d) establish and secure the maintenance of standards and requirements relating to, **postgraduate medical education and training**, including those necessary for each recognised speciality; and
- (e) develop and promote **postgraduate medical education and training** in Malaysia.

Specialty Registration

- The Education Committee shall make recommendations to the Council :
- (a) the **standards** required for entry to training;
- (b) the **training curricula** to be followed in each recognised speciality;
- (c) the **assessment arrangements** for persons undertaking education and training in general practice and specialist medical practice;
- (d) the assessment arrangements for persons **applying to the Registrar for inclusion in the Specialist Register**;

National Specialist Register

- Policy determined by MMC.
- **Evaluation of applications** (outsourced) to Academy of Medicine.
- Results submitted to **Specialist Registration Committee (SRC) of MMC.**
- **Vetting** of recommendations by Specialist Registration Committee (SRC) of MMC
- Name entered into Specialist Register in MMC after approval by SRC and endorsed by MMC.
- Fees applicable

Specialist

- IA Registered medical practitioner practising as a specialist.
- “No person whose name has not been entered into the (Specialist) Register shall practise in that specialty.”

Evaluation Committee

23. (1) There shall be an Evaluation Committee for **Primary Medical Qualifications** and Evaluation Committee for **Specialist Medical Qualifications** whose membership, rules and procedure shall be determined by the Council.

Evaluation Committee

(2) The Evaluation Committee for **Primary Medical Qualifications** shall make recommendation to the Council, including such restrictions and conditions as it deems necessary, for the following application:

- (a) a **provisional registration** under section 12 of the Act;
- (b) a **full registration** under section 14 of the Act; or
- (c) a **temporary practising certificate** under subsection 16(1) of the Act.

MALAYSIAN MEDICAL REGISTER

- The Parts of the Register will be prescribed in the Regulations.
- There will be **3 parts** of the Register (instead of 1) :
 - Part A – provisional registration, (new)
 - Part B – full registration, (existing)
 - Part C – specialist register. (new)

Council to maintain a list of TPC granted practitioners

ANNUAL PRACTISING CERTIFICATE (APC)

- A fully RMP shall produce evidence of having fulfilled the requirements stipulated by MMC and apply for APC in order to practise.
- **Professional Indemnity Cover** - is a condition for application and renewal of APC.
- Lapse in APC - subjected to competency test.
- **Required to accrue minimum credit points (future plan)**
- Practising without APC is an offence. (general penalty)

Annual Practising Certificate

- Medical (Amendment) Act 2012
 - (a) (1) “..any fully registered person who desires to practise as a medical practitioner after 31st day of December of any year and who produces evidence of having satisfied any requirement or restriction stipulated by Council shall not later than the 1st day of December of that year, make an application in the prescribed form, produce evidence of professional indemnity cover and pay the prescribed fee for a certificate to practise as a medical practitioner during the ensuing year.”
 - (b)Annual practising certificate “with terms and conditions determined by Council.”

Annual Practising Certificate

28. (1) A fully registered medical practitioner who desires to practice as a medical practitioner shall apply to the Council for an annual practising certificate in Form 14 and pay the fee as prescribed in the Second Schedule.
- (2) An application under sub-regulation (1) shall be accompanied by—
- (a) a Professional Indemnity Cover;
 - (b) the evidence of sufficient continuing professional development points obtained as determined by the Council; and
 - (c) any other documents or certificates as determined by the Council.
- (3) Notwithstanding the coming into operation of these Regulations, the Council may decide on the date of implementation of sub-regulation 28(2).

APC Requirements – Medical (Amendment) Act 2012

- Medical indemnity cover from Jan 1st to 31st December of the year applied for.
- CPD points (20) obtained from 1st July of the current year to 30th June of the ensuing year for APC of the following year. (1st July 2018 to 30 June 2019 for the 2020 APC, and similarly thereafter for every year of APC application).

Second Schedule – List of Registrable Qualifications

- Proposal to remove the Schedule from the Act.
- Subject all graduates from foreign medical schools to undergo Examination for Provisional Registration.



The Gift Of Life *CANON*

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51