



THE MEDICAL COUNCIL
OF HONG KONG

Ensuring Justice

Maintaining Professionalism

Protecting the Public

ANNUAL REPORT

2012

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Preface

This annual report, covering the period from 1 January to 31 December 2012, is the 18th report published by the Medical Council of Hong Kong (the Council). Through this publication, the Council aims to keep members of the profession as well as the public better informed of the functions and work of the Council during the year.

It should be noted that this report is intended for general information only and certain functions of the Council have accordingly been simplified and/or presented in the form of an information document. For details of the statutory functions of the Council and its subsidiary bodies, readers should refer to the Medical Registration Ordinance, Cap. 161, Laws of Hong Kong, and its subsidiary legislation.

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1

Introduction

- 1.1 The Medical Council of Hong Kong (the Council) is empowered under the Medical Registration Ordinance to handle registration and disciplinary regulation of medical practitioners in Hong Kong. To assist in carrying out these functions, the Council Secretariat, which is staffed by the Department of Health, provides executive and secretarial support to the Council. Apart from conducting policy and committee meetings, the Council had processed, with the support of the Secretariat, for the year 2012:-
- (a) 419 applications to take various parts of the Licensing Examination, the passing of which shows the achievement of a standard acceptable for registration as a medical practitioner;
 - (b) 853 applications for registration (including 260 applications for full registration, 275 applications for provisional registration, 220 applications for limited registration, and 98 applications for temporary registration);
 - (c) 374 applications for specialist registration;
 - (d) 12,684 renewals of annual practising/retention certificates; and
 - (e) 480 disciplinary complaints.
- 1.2 2012 was a very busy year for the Council. This is evident from the statistics in this report, in particular, the large number of disciplinary complaints. To ensure compliance with professional ethics and facilitate experience sharing, guidelines on specific topics relating to medical practice/management were issued for the reference of medical practitioners through the Council's newsletter.
- 1.3 In 2012, the Council continued to defend itself in a number of judicial review/appeal cases. Although being challenged in such cases, the Council is committed to protecting the public, maintaining professionalism and ensuring justice in discharging its statutory functions.

2

Membership of the Medical Council and the General Election held in 2012

2.1 The Council comprises 24 medical practitioners and 4 lay members. The composition of the Council is as follows:-

(a) 2 registered medical practitioners nominated respectively by:-

- Director of Health;
- University of Hong Kong;
- The Chinese University of Hong Kong;
- Hospital Authority;
- Hong Kong Academy of Medicine;

(b) 7 registered medical practitioners nominated and elected by the Hong Kong Medical Association;

(c) 7 registered medical practitioners who are ordinarily resident in Hong Kong elected by all registered medical practitioners; and

(d) 4 lay members.

The Director of Health is the ex-officio Registrar of Medical Practitioners.

2.2 The membership of the Council (as at 31 December 2012) was as follows:-

Professor LAU Wan-ye, Joseph, SBS (Chairman) (from 7 March 2012 onwards)

Dr CHAN Hon-ye, Constance, JP (from 13 June 2012 onwards)

Miss CHAN Ching-har, Eliza, BBS, JP

Dr CHAN Yee-shing

Miss CHAU Man-ki, Mabel, MH (from 24 January 2012 onwards)

Dr CHENG Chi-man

Dr CHEUNG Hon-ming

Dr CHOI Kin, Gabriel

Dr CHOW Chun-kwan, John

Dr CHOW Pak-chin, JP

Ms CHOY Hok-man, Constance (from 24 January 2012 onwards)

Professor FOK Tai-fai, SBS, JP

Dr HO Hung-kwong, Duncan (from 24 January 2012 onwards)

Dr HO Pak-leung

Dr HUNG Chi-tim, JP (from 1 January 2012 onwards)

Dr LAI Kit-lim, Cindy, JP (from 13 June 2012 onwards)

Professor LAM Lo-kuen, Cindy, JP

Dr LAM Tzit-yuen, David
Ms LAU Wai-yee, Monita (from 24 January 2012 onwards)
Dr LEUNG Chi-chiu
Dr LI Chung-ki, Patrick, BBS, JP (from 24 January 2012 onwards)
Dr LI Kwok-tung, Donald, SBS, JP
Professor Felice LIEH-MAK, GBS, CBE, JP
Dr LO Su-vui
Dr SHEA Tat-ming
Professor TANG Wai-king, Grace, SBS, JP
Dr TSE Hung-hing
Dr YEUNG Chiu-fat, Henry

The Council's Legal Adviser is Mr Charles CC CHAN and its Secretary is Mr LEUNG Chor-fai, Tony.

- 2.3 Dr TSE Hung-hing was re-elected while Dr CHENG Chi-man and Dr LI Chung-ki, Patrick, BBS, JP were elected as members of the Council for a period of 3 years with effect from 24 January 2012 in the 16th election of the Council conducted on 21 December 2011.
- 2.4 Dr LAM Tzit-yuen, David was re-elected while Dr HO Hung-kwong, Duncan and Dr SHEA Tat-ming were elected as members of the Council for a period of 3 years with effect from 24 January 2012 by the Hong Kong Medical Association.
- 2.5 The 17th election of the Council was conducted on 19 December 2012 to fill 2 vacancies for a period of 3 years with effect from 24 January 2013. The election exercise was carried out smoothly. Dr CHAN Yee-shing and Dr CHEUNG Tak-hong, with the highest number of votes, were declared to be re-elected and elected respectively.

3

The Preliminary Investigation Committee and Disciplinary Proceedings

- 3.1 The Council's jurisdiction over the professional conduct of registered medical practitioners is laid down in the Medical Registration Ordinance (MRO) and the Medical Practitioners (Registration and Disciplinary Procedure) Regulation.
- 3.2 The situations that give rise to disciplinary proceedings include where a registered medical practitioner has been convicted in Hong Kong or elsewhere of any offence punishable with imprisonment or where there is evidence that a registered medical practitioner has been guilty of misconduct in a professional respect.
- 3.3 For the purpose of giving general guidance to registered medical practitioners as to what may commonly constitute professional misconduct, the Council has published a Code of Professional Conduct (the Code) (Revised in January 2009), and each registered medical practitioner has been given a personal copy of the Code.
- 3.4 The Preliminary Investigation Committee (PIC) is established by the Council to perform the following functions:-
 - (a) to make preliminary investigations into complaints or information touching any matter that may be inquired into by the Council or heard by the Health Committee and to give advice on the matter to any registered medical practitioner;
 - (b) to make recommendations to the Council for the holding of an inquiry under section 21 of the MRO;
 - (c) to make recommendations to the Health Committee for conducting a hearing; and
 - (d) to make preliminary investigations upon a referral by the Education and Accreditation Committee.

3.5 The PIC comprises 7 members including 1 of the 4 lay members of the Council. The Chairman of the PIC is assisted by a Deputy Chairman, both of them being elected by the Council from among its members. The membership of the PIC (as at 31 December 2012) was as follows:-

Dr CHOI Kin, Gabriel (Chairman) (from 7 March 2012 onwards)

Professor FOK Tai-fai, SBS, JP (Deputy Chairman)

Dr FOO Kam-so, Stephen

Dr HO Chung-ping, MH, JP (from 7 January 2012 onwards)

Dr HO Hiu-fai

Dr LEE Siu-yin, Ruby (from 5 July 2012 onwards)

Miss CHAN Ching-har, Eliza, BBS, JP*

Miss CHAU Man-ki, Mabel, MH (from 2 February 2012 onwards)*

Ms CHOY Hok-man, Constance (from 2 February 2012 onwards)*

Ms LAU Wai-yee, Monita (from 2 February 2012 onwards)*

* *serving on rotation basis, each for a period of 3 months*

3.6 Complaints against registered medical practitioners touching on matters of professional misconduct are normally either lodged with the Council by individuals or referred to the Council by other bodies such as the Hong Kong Police Force, the Independent Commission Against Corruption and the press. In accordance with the established procedures, complaints will be processed through part or all of the following three stages:-

(a) Consideration by the Chairman and the Deputy Chairman to determine whether a complaint should be deliberated at PIC meetings or be referred to the Health Committee for consideration. For those complaints which are considered groundless, frivolous or not pursuable, and therefore cannot or should not proceed further, the Chairman and the Deputy Chairman will consult the lay member of the PIC before a decision is made to dismiss the complaints.

(b) Examination at the PIC meetings of the complaint as well as the explanation of the registered medical practitioner concerned, and decision as to whether or not there is a prima-facie case to refer it to the Council for a formal inquiry.

(c) Inquiry by the Council comprising a panel of at least 5 Council Members including a lay member to hear the evidence from both the complainant and the defending registered medical practitioner(s).

- 3.7 In 2012, the Council processed a total of 480 complaints. **Table 1** shows the nature of complaints. Comparative figures for the years of 2008 to 2012 are shown in the same table. As the figures show, the number of disciplinary cases received by the Council had maintained at a high level in recent years. The category of “disregard of professional responsibility to patients” mainly included cases on failure/unsatisfactory result of treatment/surgery, failure to properly/timely diagnose illness, disagreement with doctor’s medical opinion and inappropriate prescription of drugs.
- 3.8 In 2012, the PIC Chairman considered all the 480 cases received. Of these, 104 cases were dismissed jointly by the Chairman and the Deputy Chairman in consultation with the lay member of the PIC as being frivolous or groundless. **Table 2** shows the natures of these complaints. Another 9 cases could not be pursued further because the complainants failed to provide further information or statutory declaration, or the complaints were anonymous or withdrawn. 1 case was referred to the Health Committee for hearing. A total of 66 cases were referred to PIC meetings for consideration and out of which, 1 case was subsequently referred to the Council for formal inquiry. No decision has yet been reached on the remaining 300 cases for which further information is required.
- 3.9 **Table 3** shows the decisions made at the PIC meetings on the cases considered. In 2012, a total of 95 cases were considered at the PIC meetings, including complaint cases received in 2012 or before.
- 3.10 **Table 4** gives a closer look into the PIC’s work in 2012. A total of 11 meetings were held to consider the 95 cases. Of these 95 cases, 26 were dismissed by the PIC while 69 were referred to the Council. At each PIC meeting, the presence of a lay member is mandatory.
- 3.11 The majority of complaints did not reach the inquiry stage. They were dismissed by the PIC as considered either frivolous or related to allegations which did not constitute professional misconduct. As a considerable number of these complaints were related to doctors’ communication skills and attitude falling short of the expectation of the patients, PIC has since December 2012 adopted a practice of informing the doctors concerned of the dismissed complaints for their attention and improvement. Other complaints could not be pursued further due to the lack of supporting evidence or withdrawal of the complaints by the complainants or the complainants being unwilling to testify. There were also some which in fact touched on civil claims of professional negligence or compensation. These cases should be dealt with in civil proceedings or the Small Claims Tribunal and the complainants were so advised accordingly.

- 3.12 In an inquiry, the defendant doctor is normally legally represented. The Secretary of the Council, who is normally represented by a Government Counsel of the Department of Justice, is responsible for presenting evidence to substantiate the disciplinary charges, including for example the calling of the complainant as the prosecution's witness. Hence, the complainant seldom needs to engage his or her own lawyer to present the case in a disciplinary inquiry.
- 3.13 To deal with any legal issues raised at disciplinary inquiries, the Council is assisted throughout the hearing by its own Legal Adviser.
- 3.14 In the case *Medical Council of Hong Kong v. Helen Chan* (FACV 13/2009), the Court of Final Appeal in May 2010 held that the Legal Adviser's (i) presence at the Council's private deliberations and (ii) drafting of the Council's decisions in disciplinary inquiries not only are lawful, but also contribute to safeguarding the defendant's constitutional right to hearing by a competent, independent and impartial tribunal. In view of the Court of Final Appeal's decision, the Council decided in June 2010 to resume the former practice of inviting the Legal Adviser (i) to be present during the Council's deliberations in disciplinary inquiries and (ii) to draft the Council's judgments on the basis of the Council's decisions, findings and reasoning.
- 3.15 The Legal Adviser does not take part in the Council's deliberations or decision-making. He only gives legal advice to the Council, and will inform the parties of any legal advice given during the Council's private deliberations. He will also draft the judgment on the basis of the Council's decisions, findings and reasoning. The Council will thoroughly scrutinize the draft and modify it where necessary in order to ensure that the judgment says what the Council means.
- 3.16 It should also be stressed that, before any registered medical practitioner is found guilty of any disciplinary offence, the offence has to be proved to the required standard by the evidence put before the Council. The standard of proof which applies in each case has to be commensurate with the gravity of the offence charged.

3.17 If a registered medical practitioner is found guilty of a disciplinary offence after an inquiry, he will face one of the following disciplinary sanctions:-

- Removal from the General or Specialist Register;
- Removal from the General or Specialist Register for such period as the Council may think fit;
- Reprimand;
- Suspended application of any of the above for a period not exceeding 3 years, subject to any conditions the Council may think fit; or
- Warning letter.

3.18 **Table 5** shows the number of disciplinary inquiries conducted by the Council in 2012. A total of 13 cases were heard in the year of 2012. In 12 of the 13 cases (92.3%), the Council found the registered medical practitioners concerned guilty. The more prominent cases were related to the registered medical practitioners' disregard of professional responsibilities to patients.

3.19 A registered medical practitioner aggrieved by the disciplinary order of the Council has a right in law to appeal to the Court of Appeal. **Table 6** shows the number of appeals against the Council's orders in the 5 years from 2008 to 2012. A total of 7 appeals had been lodged with the Court of Appeal as at 2012 (including 6 appeals which were carried forward from previous years). Of them, 1 appeal was dismissed by the Court of Appeal, 1 appeal was allowed by the Court of Appeal and 2 appeals were withdrawn by the registered medical practitioners concerned.

4

The Licentiate Committee and the Licensing Examination of Medical Council

4.1 The Licentiate Committee (LC) established by the Council is responsible for administering and running the Licensing Examination for non-local medical graduates. It is also responsible for the assessment of interns during the period of supervised training.

4.2 The Licensing Examination was introduced to replace the Licentiate Scheme with effect from 1 September 1996. Upon passing the Examination and completion of the prescribed period of internship, a person will be qualified for full registration as a registered medical practitioner.

4.3 The Licensing Examination is held annually and consists of 3 parts:-

Part I

Examination in Professional Knowledge — consisting of two multiple-choice question papers, set in both Chinese and English, on professional subjects including medicine, surgery, orthopaedic surgery, paediatrics, obstetrics and gynaecology, psychiatry, medical ethics/community medicine and basic sciences.

Part II

Proficiency Test in Medical English — a written professional English paper to test candidates' proficiency in medical English.

Part III

Clinical Examination — an examination to test candidates' ability to apply professional knowledge to solve clinical problems, in which candidates will be examined in medicine, surgery (including cases on orthopaedic surgery), obstetrics and gynaecology, and paediatrics. Candidates may answer in English, Cantonese or Putonghua.

4.4 Candidates who have passed all 3 parts of the Licensing Examination will normally be required to undergo a 12-month internship training programme in hospitals accredited by the Central Internship Committee of the Hospital Authority. During this period, an intern will work under supervision in the following disciplines:-

- medicine
- surgery
- orthopaedics and traumatology
- obstetrics and gynaecology
- paediatrics
- geriatrics
- psychiatry

4.5 The membership of the LC (as at 31 December 2012) was as follows:-

Dr CHEUNG Hon-ming (Chairman)

Dr AU Kit-sing, Derrick (from 12 February 2012 onwards)

Dr CHAN Kit-sheung (from 12 February 2012 onwards)

Professor CHENG Wing-keung, Stephen (from 12 February 2012 onwards)

Dr CHEUNG Wai-lun, JP

Dr CHIU Pui-yin, Amy, JP (from 13 September 2012 onwards)

Professor TANG Chi-wai, Sydney

Professor TOMLINSON Brian (from 13 February 2012 onwards)

Dr TSOI Wai-wang, Gene

Professor WONG Ka-sing, Lawrence

4.6 To discharge the respective functions of the LC, a total of 5 Sub-Committees have been set up:-

(a) Examination Sub-Committee

(Chairman : Professor TOMLINSON Brian)

- responsible for conducting the Licensing Examination and certifying passes and failures in the examination

(b) Internship Sub-Committee

(Chairman : Professor CHENG Wing-keung, Stephen)

- responsible for the assessment and supervision of interns during the period of supervised training

(c) Credentials Sub-Committee

(Chairman : Professor TANG Chi-wai, Sydney)

- responsible for considering and determining the eligibility of the applicants for sitting the Licensing Examination

(d) Exemptions Sub-Committee

(Chairman : Dr TSOI Wai-wang, Gene)

- responsible for considering and determining applications for exemption from various parts of the Licensing Examination and part of the internship training

(e) Review Sub-Committee

(Chairman : Mr Erik SHUM)

- responsible for considering and determining applications for review from candidates aggrieved by the decisions of other sub-committees regarding the examination and/or internship training

- 4.7 Details of the results of the Licensing Examination since 1996 are shown in [Table 7](#).
- 4.8 The number of candidates sitting the Licensing Examination is on the rise in recent years. Compared with 2007, the number of candidates sitting Parts I, II and III of the 2012 Licensing Examination has been increased by 103%, 118% and 192% respectively over the past five years.
- 4.9 The Council had directed the LC to conduct a comprehensive review on the policy on administration and conduct of the Licensing Examination, and to explore the feasibility of conducting the Licensing Examination more frequently. The recommendations would be made to the Council for consideration in 2013.

The Education and Accreditation Committee

5.1 The Education and Accreditation Committee (EAC) is established by the Council to perform the following functions:-

- (a) to determine, upon the recommendation of the Hong Kong Academy of Medicine (HKAM), the specialties under which names of registered medical practitioners may be included in the Specialist Register;
- (b) to recommend to the Council, on the recommendation of the HKAM, the qualification, experience and any other attributes that qualify a registered medical practitioner to have his name included in the Specialist Register under a particular specialty;
- (c) to recommend to the Council the procedures, documentations and fees payable for including the name of a registered medical practitioner in the Specialist Register;
- (d) to recommend and review the standard and structure of undergraduate medical education and medical training required for a person to become a registered medical practitioner; and
- (e) to recommend to the Council whether the name of a registered medical practitioner should be included in or removed from the Specialist Register.

5.2 The membership of the EAC (as at 31 December 2012) was as follows:-

Professor TANG Wai-king, Grace, SBS, JP (Chairman)

Professor CHAN Anthony Tak-cheung

Dr CHAN Man-chung, JP (from 1 January 2012 onwards)

Professor CHEUNG Yiu-fai (from 12 February 2012 onwards)

Professor CHUNG Kwok-hung, Tony

Dr HUNG Chi-tim, JP

Professor LAM Lo-kuen, Cindy, JP

Dr LAM Tzit-yuen, David

Professor LAU Chak-sing (from 1 January 2012 onwards)

Professor LAW Ying-kit, Simon (from 12 February 2012 onwards)


Dr LEUNG Kwok-ling, Ares

Dr LI Chi-kong, JP

Dr LI Chung-ki, Patrick, BBS, JP (from 7 March 2012 onwards)

Dr YU Cissy, MH

- 5.3 The voluntary “CME Programme for Practising Doctors who are not taking CME Programme for Specialists” (the Programme) was implemented with effect from 1 October 2001. Medical practitioners whose names are not included in the Specialist Register can participate in the Programme. Participants who have accumulated 30 or more CME points in a year within the 3-year CME cycle will be awarded a CME certificate to certify that they have achieved a satisfactory level of CME activity during that particular period. The CME certificate can be displayed inside the medical practitioner’s clinic. Since the implementation of the Programme and up to 31 December 2012, the Council had, on the recommendation of the EAC, issued some 17,406 CME certificates to the participating medical practitioners.
- 5.4 Under the Programme, participating medical practitioners who have acquired 90 or more CME points in a CME cycle will be given approval to use the title ‘CME-Certified’ on their visiting cards during the immediately following CME cycle. As at 31 December 2012, there were 1,647 medical practitioners holding valid ‘CME-Certified’ title.
- 5.5 The EAC is also responsible for scrutinizing applications for quotability of qualifications and recommending to the Council whether a particular qualification may be quoted on signboards, letterheads and visiting cards, etc.. In 2012, the Council considered the recommendations of the EAC on a total of 15 qualifications. Of these 15 qualifications, 6 were regarded as having fulfilled the prevailing guidelines and were included in the List of Quotable Qualifications with the endorsement of the Council.
- 5.6 The Specialist Register was established in 1998 to provide for specialist registration of registered medical practitioners qualified in various specialties. There were 54 specialties as at 31 December 2012. On the recommendation of the EAC, the Council approved 374 applications of registered medical practitioners for inclusion of their names in the Specialist Register in 2012.
- 5.7 In response to the comment of the Visiting Team appointed by the Council for the 2008 Review on Undergraduate Medical Education, the Council, on the recommendation of the EAC, had invited the medical faculties of The Chinese University of Hong Kong and the University of Hong Kong to establish procedures and guidelines to address concerns in relation to “Fitness to Practise” of medical students. The two medical faculties had already implemented their “Fitness to Practise” mechanisms respectively.



5.8 On the direction of the Council, the EAC since January 2010 had reviewed the Council's policy on quotable appointments promulgated in May 2000. After thorough discussion, the EAC had proposed and the Council had endorsed to replace the policy with a set of "Rules on Quotable Appointments" (Rules). Members of the profession had been informed of the new Rules in September 2012. The EAC would continue to work on the implementation arrangements and related issues.

6

The Ethics Committee and the Code of Professional Conduct

- 6.1 The Ethics Committee (EC) is established by the Council and its functions include:-
- (a) to study and review any case relating to medical ethics or professional conduct, either on its own motion or at the request in writing of not less than 20 registered medical practitioners; and
 - (b) to advise and make recommendations to the Council on matters about medical ethics and professional conduct generally.
- 6.2 The membership of the EC (as at 31 December 2012) was as follows:-
- Dr TSE Hung-hing (Chairman)
 - Dr CHAN Chok-wan, BBS
 - Dr CHAN Yee-shing (from 24 January 2012 onwards)
 - Dr CHENG Chi-man
 - Ms CHOY Hok-man, Constance (from 1 March 2012 onwards)
 - Dr David FANG, SBS, JP
 - Dr LAI Cham-fai
 - Dr LEUNG Chi-chiu
 - Professor LEUNG Ping-chung, SBS, OBE, JP
 - Dr LI Kwok-tung, Donald, SBS, JP
 - Mrs LING LEE Ching-man, Eleanor, SBS, OBE, JP
 - Professor TAO LAI Po-wah, Julia
- 6.3 To cater for the need of people who may not be computer literate, the Council in October 2011 promulgated new provisions of the Guidelines on Doctors Directories at Appendix D to the Code of Professional Conduct (the Code) to require that doctors directories in electronic format should be in printable form, so that printed copies could be made when necessary. The Council required that the existing publishing organizations given approval to publish doctors directories should implement the new provisions within six months from the date of promulgation of the provisions. In 2012, the Council, on the recommendation of the EC, had accepted that the evidence provided by all the existing publishing organizations, namely Department of Health, Hong Kong Doctors Union, Hong Kong Medical Association, Hong Kong Orthopaedic Association and Hospital Authority, as sufficient proof of satisfaction of the new provisions.
- 6.4 At the request of the Coroner's Court after inquest into the death of a patient after surgery, the Council on the recommendation of the EC had reviewed and revised section 2.5 of the Code to require that express and specific consent is required for major treatments, invasive procedures, and any treatment which may have significant risks. Specifically:-

- (i) Consent for major surgical procedures involving general anaesthesia must be given in writing.
- (ii) For written consent, a reasonably clear and succinct record of the explanation given should be made in the consent form. The patient, the doctor and the witness (if any) should sign the consent form at the same time. Each signatory must specify his/her name and the date of signing next to his/her signature.

The revised section 2.5 took immediate effect upon promulgation in the 19th Issue of the Council's newsletter in December 2012.

- 6.5 At the invitation of the Food and Health Bureau (FHB), the Council discussed the "Consultation Paper on Introduction of the Concept of Advance Directives in Hong Kong" issued by FHB in February 2010. The Council endorsed in principle the Government's proposal to promote public awareness of the concept of advance directives in Hong Kong and invited the EC to study the consultation paper in greater details with a view to considering whether guidelines on handling advance directives should be drawn up for reference by medical practitioners. Since mid-2010, the EC had been drafting general principles and guidelines on advance refusal of treatment for medical practitioners.
- 6.6 However, having critically reviewed the common law position on advance directives, the controversies on a number of issues and the operational difficulties for medical practitioners to proceed in the absence of legislation, the Council and the EC were becoming increasingly concerned that to proceed with issuing the draft general principles and guidelines would cause problems for medical practitioners, patients and their families, such as ethical arguments on advance refusal of basic care, argument on the legalization of euthanasia by both medical and non-medical communities, and verification of the validity of advance refusal of treatment, in particular advance refusals made orally, etc..
- 6.7 The Council therefore urged the Administration to legislate on advance directives as soon as possible in order to resolve the controversies involved and to protect both medical practitioners and patients in ensuring that advance directives on medical treatments would be properly implemented. The Council also requested the Administration to involve the medical profession in the legislative process. Besides, the Council passed the general principles and guidelines on advance refusal of treatment drafted by the EC to the Administration for consideration.

The Health Committee

- 7.1 The Health Committee (HC) is established to deal with the health aspect of medical practitioners whose fitness to practise medicine is called into question. It acts in accordance with the procedure laid down in the Medical Practitioners (Registration and Disciplinary Procedure) Regulation.
- 7.2 The functions of the HC are as follows:-
- (a) to conduct a hearing into any case or matter concerning the health or physical or mental fitness to practise of any registered medical practitioner, whether the case or matter has been investigated by the Preliminary Investigation Committee (PIC) or not;
 - (b) to conduct a hearing into matters referred to it by the Council under section 21(1) of the Medical Registration Ordinance;
 - (c) to make a recommendation to the Council, after due hearing conducted under paragraph (a) or (b) above, that the name of a registered medical practitioner be removed from the General Register permanently or for any period not exceeding 12 months, and that such an order for removal be suspended subject to such conditions as recommended by the HC, where appropriate; and
 - (d) to recommend the extension, not exceeding 12 months, of a period of temporary removal of name recommended under paragraph (c) above.
- 7.3 The membership of the HC (as at 31 December 2012) was as follows:-
- Dr CHOW Pak-chin, JP (Chairman) (from 7 January 2012 onwards)
 Miss CHAU Man-ki, Mabel, MH (from 2 February 2012 onwards)
 Dr HO Hung-kwong, Duncan (from 2 February 2012 onwards)
 Dr HUI Yin-fun, Linda
 Dr IP Wing-yuk (from 7 June 2012 onwards)
 Dr LO Su-vui (from 1 January 2012 onwards)
 Dr PANG Fei-chau (from 12 February 2012 onwards)
 Dr POON Tak-lun
 Dr TSOI Lai-to, Sammy
 Dr WONG Yee-him, John (from 7 June 2012 onwards)
 Dr WONG Ying, Grace (from 7 June 2012 onwards)
- 7.4 In 2012, the Chairman and the Deputy Chairman of the PIC referred a case where a registered medical practitioner's fitness to practise medicine is called into question to the HC for a hearing. More information was being sought from an overseas medical body for preparation of the conduct of the hearing.

Registration of Medical Practitioners

- 8.1 As at 31 December 2012, there were 13,006 medical practitioners with full registration. This figure included those resident in Hong Kong and those on the non-resident list. **Table 8** shows that there had been an increase in the number of registered medical practitioners from 12,215 in 2008 to 13,006 in 2012 (6.5%). In addition to the medical practitioners with full registration, there were 175 medical practitioners with limited registration among whom 57 were permitted to work in the exempted clinics.
- 8.2 Keeping the entries in the General Register and the Specialist Register up-to-date has been a major task for the Council Secretariat. Hundreds of transactions are carried out weekly, including changes of registered address or personal particulars, removal from and restoration to the registers, transfer to and from the resident and the non-resident lists respectively, issue of Certificates of Good Standing and Certificates Verifying Registration, etc..
- 8.3 **Table 9** lists in detail the registration figures in respect of various parts of the General Register, including “full”, “provisional”, “limited” and “temporary” registration as well as cases of restoration to the Register from 2003 to 2012. As the figures show, there was a drop in the number of applications for registration in Part I of the General Register since 1997 due to the amendment of the Medical Registration Ordinance in respect of the qualification for registration. Non-local medical graduates, except those recognised under the transitional arrangement, are required to sit the Licensing Examination.
- 8.4 A medical practitioner whose name has been removed from the General Register, whether as a consequence of disciplinary proceedings or otherwise, may apply to the Council for restoration of his name to the Register. The Council may hold an inquiry to decide whether to grant or refuse the application. **Table 9** shows that in 2012, 21 such applications were approved.
- 8.5 In addition, every year the Council Secretariat has to conduct a large-scale exercise of renewal of practising and retention certificates for all registered medical practitioners. With the increase in the number of registered medical practitioners, the number of annual practising and retention certificates issued had also risen from 11,845 in 2008 to 12,684 in 2012, representing an increase of 7.1%.
- 8.6 As at 31 December 2012, there were 5,633 medical practitioners registered on the Specialist Register under 54 specialties. The number of medical practitioners registered under each specialty is set out in **Table 10**.

9

Communication with Medical Practitioners and the Public

9.1 In order to disseminate information to all medical practitioners and to solicit their views, the Council would publish a newsletter on a regular basis. The editorial board comprises:-

| | | |
|--|---|----------------|
| Professor LAU Wan-ye, Joseph, SBS (Chairman) | } | as appropriate |
| Dr TSE Hung-hing | | |
| Dr CHOI Kin, Gabriel | | |
| Dr CHOW Pak-chin, JP | | |
| Professor TANG Wai-king, Grace, SBS, JP | | |
| Dr CHEUNG Hon-ming | | |
| Secretary of the Medical Council | | |

The 19th issue of the newsletter was published in December 2012.

9.2 The Council has launched its website (www.mchk.org.hk) on the Internet. The following information on the website is accessible to members of the public:-

- (a) Membership of the Council and its committees;
- (b) The Medical Registration Ordinance;
- (c) Publications of the Council including:
 - (i) The Code of Professional Conduct
 - (ii) Hong Kong Doctors
 - (iii) How the Council deals with Complaints
 - (iv) Newsletters of the Council
 - (v) Annual Reports of the Council;
- (d) Advice to registered medical practitioners;
- (e) List of registered medical practitioners on the General Register and the Specialist Register;
- (f) Application forms for registration
- (g) Judgments of the Council in disciplinary inquiries;
- (h) Licensing Examination;
- (i) List of Quotable Qualifications approved by the Council;
- (j) Policy on Quotable Appointments;
- (k) CME Programme for Practising Doctors who are not taking CME Programme for Specialists;
- (l) List of Doctors Directories approved by the Council; and
- (m) Attendance of Council members.

10

Future Developments

- 10.1 With the growing complexity of complaints against registered medical practitioners, members of the public expect greater accountability and transparency in dealing with the complaints from the Council. Within the medical profession, there are also discussions on ethical issues and expression of concerns over the standard and quality of medical practice which requires the Council's attention. Having said that, the Council will continue to improve its services to meet the changing needs from both the members of the public and the profession.
- 10.2 With regard to the Reform of the Medical Council, reform proposals have been forwarded to the Administration for consideration. In addition, the Council in May 2010 proposed to the Administration to increase the number of lay members in the Preliminary Investigation Committee (PIC) by adding a new category of the PIC members, which consists of 4 - 6 lay persons who are not members of the Council. One of these lay members will be rostered to sit in each PIC meeting. The proposal will introduce the necessary improvement to the PIC and also alleviate the workload of the lay Council members in the disciplinary proceedings of the Council. Amendments to the Medical Registration Ordinance and its subsidiary Regulations will have to be made to implement the proposals, if they are supported by the Administration.
- 10.3 The medical faculties of The Chinese University of Hong Kong and the University of Hong Kong have been required by the Council to implement their "Fitness to Practise" mechanism to ensure that their medical graduates are fit to practise. Upon implementation, it could further uphold professional integrity and enhance medical practitioners' commitment to responsibility and responsiveness to fulfil their duty of care to patients.

TABLE 1

Complaints received by the Medical Council

| Allegations by Category | No. of Cases | | | | |
|--|--------------|------------|------------|------------|------------|
| | 2008 | 2009 | 2010 | 2011 | 2012 |
| 1. Conviction in Court | 14 | 27 | 34 | 61 | 63 |
| (a) <i>Failure to keep proper record of dangerous drugs</i> | (6) | (2) | (1) | (-) | (2) |
| (b) <i>Others</i> | (8) | (25) | (33) | (61) | (61) |
| 2. Disregard of professional responsibility to patients | 329 | 348 | 349 | 294 | 318* |
| 3. Issuing misleading/false medical certificates | 39 | 43 | 29 | 29 | 20 |
| 4. Practice promotion | 25 | 15 | 13 | 19 | 8 |
| 5. Misleading, unapproved description & announcement | 11 | 12 | 14 | 12 | 8 |
| 6. Improper/ indecent behaviour to patients | 9 | 5 | 14 | 2 | 10 |
| 7. Abuse of professional position to further improper association with patients | - | 1 | - | 2 | - |
| 8. Fitness to practise | - | 4 | - | 2 | 2 |
| 9. Abuse of professional confidence | 7 | 5 | - | 1 | 1 |
| 10. Depreciation of other medical practitioners | - | 1 | - | 1 | 1 |
| 11. Improper delegation of medical duties to unregistered persons | - | 3 | 1 | - | 1 |
| 12. Sharing fee and improper financial transaction | - | 2 | 3 | - | 5 |
| 13. Other minor issues unrelated to professional responsibility | 29 | 25 | 14 | 38 | 43 |
| Total : | 469 | 493 | 476 | 461 | 480 |

Remarks:

(i) Of the 480 complaints received in 2012:

- 300 cases (62.5%) are being processed or pending additional information
- 104 cases (21.7%) were dismissed by the PIC Chairman and the PIC Deputy Chairman in consultation with the Lay Member as being frivolous or groundless
- 66 cases (13.7%) were referred to the PIC meeting, out of which 1 case (0.2%) was referred to inquiry
- 9 cases (1.9%) could not be pursued further because the complainants failed to provide further information or statutory declaration or the complaints were anonymous or withdrawn, etc.
- 1 case (0.2%) was referred to the Health Committee by the PIC Chairman and the PIC Deputy Chairman

*(ii) The breakdown of cases on "Disregard of professional responsibility to patients" in 2012 is as follows:

- (a) Failure/unsatisfactory result of treatment/surgery, failure to properly/timely diagnose illness and disagreement with doctor's medical opinion – 140 cases
- (b) Failure to give proper medical advice/explanation – 11 cases
- (c) Inappropriate prescription of drugs – 53 cases
- (d) Doctor's unprofessional attitude/doctor-patient communication – 15 cases
- (e) Conducting unnecessary or inappropriate treatment/surgery – 15 cases
- (f) Fees and others – 84 cases

TABLE 2

**Breakdown on the complaints received in 2012
which were dismissed by the Chairman and the Deputy Chairman of
the Preliminary Investigation Committee (PIC) of the Medical Council
as being frivolous or groundless**

| Nature of Complaint | No. of Cases |
|--|--------------|
| 1. Failure/unsatisfactory results of treatment/surgery | 15 |
| 2. Failure to properly/timely diagnose illness | 6 |
| 3. Disagreement with doctor's medical opinion | 12 |
| 4. Inappropriate prescription of drugs | 4 |
| 5. Doctors' unprofessional attitude/doctor-patient communication | 21 |
| 6. Fees dispute | 4 |
| 7. Sick leave and issues related to medical certificates | 9 |
| 8. Practice promotion | 2 |
| 9. Improper/ indecent behaviour to patients | 2 |
| 10. Other issues unrelated to professional misconduct | 29 |
| Total : | 104 |

TABLE 3

Work of the PIC of the Medical Council

| Nature | 2008 | 2009 | 2010 | 2011 | 2012 |
|---|------|------|------|------|-----------------|
| 1. Total number of cases referred to the PIC meetings | 151 | 103 | 108 | 99 | 95* |
| 2. Total number of cases referred to the Medical Council for inquiries or no inquiry after the PIC meetings | 27 | 41 | 49 | 59 | 69 [#] |
| 3. Total number of cases referred to the Health Committee for hearing after the PIC meetings | 1 | 2 | - | - | - |

Remarks:

* This figure included those cases received before 2012. They were considered by the PIC in 2012 under the following categories:

| | No. of Cases |
|--|--------------|
| (a) Disregard of professional responsibility to patients | 31 |
| • <i>failure/unsatisfactory results of treatment/surgery</i> | 12 |
| • <i>failure to properly/timely diagnose illness</i> | 8 |
| • <i>failure to give proper medical advice/explanation</i> | 3 |
| • <i>conducting unnecessary or inappropriate treatment/surgery</i> | 2 |
| • <i>inappropriate prescription of drugs</i> | 4 |
| • <i>fees and others</i> | 2 |
| (b) Conviction in court | 51 |
| (c) Practice promotion | 6 |
| (d) Issuing misleading, unapproved description and announcement | 5 |
| (e) Abuse of professional confidence | 1 |
| (f) Indecent behaviour to patients | 1 |
| Total: | 95 |

[#] The cases referred by the PIC to the Medical Council in 2012 are classified as follows:

| | No. of Cases |
|---|--------------|
| (A) Recommended for no inquiry | |
| Conviction in court in Hong Kong | 48 |
| • <i>careless driving</i> | 44 |
| • <i>failure to comply with Building Ordinance order</i> | 2 |
| • <i>failure to give information on demand</i> | 1 |
| • <i>riding bicycle in country park</i> | 1 |
| (B) Recommended for inquiry | |
| (a) Conviction in court in Hong Kong | 2 |
| • <i>misconduct in public office</i> | 1 |
| • <i>agent deceiving principal</i> | 1 |
| (b) Conviction in court in overseas | 1 |
| (c) Disregard of professional responsibility to patients | 10 |
| • <i>failure/unsatisfactory results of treatment/surgery</i> | 6 |
| • <i>failure to properly/timely diagnose illness</i> | 1 |
| • <i>inappropriate prescription of drugs</i> | 3 |
| (d) Practice promotion | 4 |
| (e) Issuing misleading, unapproved description and announcement | 2 |
| (f) Abuse of professional confidence | 1 |
| (g) Indecent behaviour to patients | 1 |
| Total: | 69 |

TABLE 4

Work Statistics of the PIC of the Medical Council in 2012

| | Quarter | | | | Total |
|--|---------------|---------------|---------------|---------------|----------------|
| | Jan.-Mar. | Apr.-June | July-Sept. | Oct.-Dec. | |
| No. of PIC Meetings | 3 | 3 | 2 | 3 | 11 |
| No. of cases considered | 23 | 25 | 18 | 29 | 95 |
| No. of cases dismissed (%) | 9 (39.1%) | 6 (24.0%) | 2 (11.1%) | 9 (31.0%) | 26 (27.4%) |
| No. of cases referred to the Medical Council (%) | 14 (60.9%) | 19 (76.0%) | 16 (88.9%) | 20 (69.0%) | 69* (72.6%) |
| No. of cases referred to the Health Committee (%) | - (0%) | - (0%) | - (0%) | - (0%) | - (0%) |

* Of them, 48 cases were of minor offences and the Medical Council accepted the PIC's recommendation that no inquiry was to be held (Please see details at Table 3).

TABLE 5

Disciplinary Inquiries conducted by the Medical Council in 2012

| Nature | No. of cases/ doctors involved | Decision of the Council |
|--|-----------------------------------|--|
| (A) Disregard of professional responsibility to patients | 1 | Removed indefinitely |
| | 1 | Removed for 2 years |
| | 1 | Removed for 1 month |
| | 2 | Removed for 1 month (suspended for 1 year) |
| | 2 | Reprimanded |
| | 1 | Warning Letter (gazetted) |
| | 2 | Warning Letter (not gazetted) |
| | 1 | Not guilty |
| <i>Sub-total</i> | <i>11</i> | |
| (B) Conviction in court | | |
| (a) Offence of indecent assault | 1 | Removed for 1 year (suspended for 3 years) |
| (b) Offences contrary to the Dutiable Commodities (Marking and Colouring of Hydrocarbon Oil) Regulations, Cap. 109C, Laws of Hong Kong | 1 | 1 charge: Reprimanded 1 charge: Warning Letter (not gazetted) |
| <i>Sub-total</i> | <i>2</i> | |
| Total : | 13 | |

[Summary : 12 cases : guilty
1 case : not guilty

All cases were referred to the Council for inquiry by the PIC meetings held in/before 2012]

TABLE 6

Figures on Appeal Cases

| | 2008 | 2009 | 2010 | 2011 | 2012 |
|--|-----------|-----------|-----------|-----------|----------|
| No. of appeals lodged during the year | 4 | 4 | 6 | 5 | 1 |
| No. of appeal cases carried forward from previous years | 7 | 10 | 12 | 13 | 6 |
| Total no. of appeal cases in progress in the year : | 11 | 14 | 18 | 18 | 7 |

Results of appeal cases concluded in 2012:

| | |
|------------------------------|----------|
| Dismissed by Court of Appeal | 1 |
| Allowed by Court of Appeal | 1 |
| Appeal withdrawn | 2 |
| Total : | 4 |

TABLE 7

Results of the Licensing Examination

| Year | Examination in Professional Knowledge | | | Proficiency Test in Medical English (March) | | | Proficiency Test in Medical English (September) | | | Clinical Examination | | | Completed Internship |
|------|---------------------------------------|--------|----|---|--------|-----|---|--------|----|----------------------|--------|----|----------------------|
| | Sat | Passed | % | Sat | Passed | % | Sat | Passed | % | Sat | Passed | % | |
| 1996 | 154 | 11 | 7 | - | - | - | 140 | 88 | 63 | 40 | 12 | 30 | |
| 1997 | 178 | 13 | 7 | 15 | 12 | 80 | 90 | 48 | 53 | 27 | 9 | 33 | 11 |
| 1998 | 165 | 43 | 26 | 7 | 7 | 100 | 51 | 43 | 84 | 49 | 17 | 35 | 6 |
| 1999 | 165 | 20 | 12 | 5 | 4 | 80 | 57 | 39 | 68 | 49 | 9 | 18 | 16 |
| 2000 | 132 | 13 | 10 | 1 | 0 | 0 | 48 | 28 | 58 | 42 | 10 | 23 | 10 |
| 2001 | 124 | 13 | 10 | * | - | - | 50 | 37 | 74 | 35 | 9 | 26 | 10 |
| 2002 | 104 | 11 | 11 | * | - | - | 31 | 13 | 42 | 33 | 13 | 39 | 7 |
| 2003 | 76 | 11 | 14 | * | - | - | 30 | 26 | 87 | 27 | 7 | 26 | 9 |
| 2004 | 77 | 7 | 9 | * | - | - | 20 | 13 | 65 | 21 | 9 | 43 | 7 |
| 2005 | 81 | 11 | 14 | * | - | - | 29 | 22 | 76 | 22 | 5 | 23 | 10 |
| 2006 | 105 | 21 | 20 | * | - | - | 36 | 29 | 81 | 26 | 9 | 35 | 5 |
| 2007 | 117 | 22 | 19 | * | - | - | 34 | 33 | 97 | 37 | 18 | 49 | 8 |
| 2008 | 138 | 12 | 9 | * | - | - | 38 | 25 | 66 | 23 | 8 | 35 | 9 |
| 2009 | 158 | 41 | 26 | * | - | - | 39 | 22 | 56 | 48 | 15 | 31 | 12 |
| 2010 | 168 | 43 | 26 | * | - | - | 65 | 64 | 98 | 72 | 21 | 29 | 11 |
| 2011 | 221 | 51 | 23 | * | - | - | 54 | 50 | 93 | 76 | 21 | 28 | 15 |
| 2012 | 237 | 61 | 26 | * | - | - | 74 | 67 | 91 | 108 | 47 | 44 | 23 |

* suspended since March 2001

TABLE 8

Total Number of Registered Medical Practitioners in the General Register of Hong Kong

Part I of the Register (Full Registration)

| | 2008 | 2009 | 2010 | 2011 | 2012 (as at 31 Dec 2012) |
|--------------------------|---------------|---------------|---------------|---------------|-----------------------------|
| On the Resident List | 11,251 | 11,496 | 11,715 | 11,959 | 12,181 |
| On the Non-resident List | 964 | 928 | 905 | 859 | 825 |
| Total : | 12,215 | 12,424 | 12,620 | 12,818 | 13,006 |

Part III of the Register (Limited Registration)

| | 2008 | 2009 | 2010 | 2011 | 2012 (as at 31 Dec 2012) |
|--|------------|------------|------------|------------|-----------------------------|
| Promulgation No. 1 | - | - | - | - | - |
| Promulgation No. 2 | 121 | 105 | 106 | 101 | 118 |
| <i>University of Hong Kong</i> | (47) | (34) | (42) | (39) | (45) |
| <i>The Chinese University of Hong Kong</i> | (67) | (63) | (60) | (60) | (62) |
| <i>Hospital Authority</i> | (4) | (7) | (3) | (2) | (11) |
| <i>Department of Health</i> | (3) | (1) | (1) | (-) | (-) |
| Promulgation No. 3 | 58 | 50 | 48 | 44 | 41 |
| Promulgation No. 4 | 18 | 15 | 17 | 16 | 16 |
| Promulgation No. 5 | - | - | - | - | - |
| Promulgation No. 6 | - | - | - | - | - |
| Promulgation No. 7 | - | - | - | - | - |
| Promulgation No. 8 | - | - | - | 1 | - |
| Total : | 197 | 170 | 171 | 162 | 175 |

TABLE

9

Breakdown of Registrations and Restoration to the General Register

| | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 (as at 31 Dec 2012) |
|---|--------------|------------|--------------|------------|------------|------------|------------|------------|------------|--------------------------------|
| Registration in Part I of the Register (Full registration) | 427 | 351 | 327 | 322 | 313 | 329 | 293 | 280 | 281 | 260 |
| Registration in Part II of the Register (Provisional registration for interns) | 318 | 326 | 322 | 312 | 334 | 293 | 280 | 272 | 261 | 275 |
| Registration in Part III of the Register (Limited registration) | 196 | 196 | 207 | 202 | 218 | 197 | 170 | 174 | 195 | 220 |
| Registration in Part IV of the Register (Temporary registration) | 76 | 93 | 125 | 85 | 86 | 93 | 94 | 101 | 135 | 98 |
| Restoration to the Register | 21 | 23* | 31 | 20 | 24 | 41 | 31 | 23 | 26 | 21 |
| Total : | 1,038 | 989 | 1,012 | 941 | 975 | 953 | 868 | 850 | 898 | 874 |

* An application from a doctor, whose name had been removed from the General Register after disciplinary proceedings, was refused after inquiry into his conduct following his removal.

TABLE 10

Number of Registered Medical Practitioners in the Specialist Register

(Position as at 31 December 2012)

| | No. |
|---|--------------|
| 1. Anaesthesiology | 367 |
| 2. Intensive Care | 18 |
| 3. Community Medicine | 28 |
| 4. Emergency Medicine | 262 |
| 5. Family Medicine | 305 |
| 6. Obstetrics and Gynaecology | 383 |
| 7. Ophthalmology | 231 |
| 8. Orthopaedics & Traumatology | 352 |
| 9. Otorhinolaryngology | 140 |
| 10. Paediatrics | 513 |
| 11. Pathology | 149 |
| 12. Internal Medicine | 104 |
| 13. Cardiology | 207 |
| 14. Critical Care Medicine | 50 |
| 15. Dermatology and Venereology | 84 |
| 16. Endocrinology, Diabetes and Metabolism | 88 |
| 17. Gastroenterology and Hepatology | 155 |
| 18. Geriatric Medicine | 129 |
| 19. Haematology and Haematological Oncology | 44 |
| 20. Nephrology | 107 |
| 21. Neurology | 97 |
| 22. Respiratory Medicine | 148 |
| 23. Rheumatology | 60 |
| 24. Psychiatry | 278 |
| 25. Radiology | 275 |
| 26. Clinical Oncology | 99 |
| 27. Nuclear Medicine | 17 |
| 28. General Surgery | 427 |
| 29. Urology | 101 |
| 30. Neurosurgery | 62 |
| 31. Cardio-thoracic Surgery | 39 |
| 32. Plastic Surgery | 53 |
| 33. Paediatric Surgery | 28 |
| 34. Immunology and Allergy | 3 |
| 35. Infectious Disease | 26 |
| 36. Medical Oncology | 29 |
| 37. Administrative Medicine | 6 |
| 38. Public Health Medicine | 55 |
| 39. Occupational Medicine | 10 |
| 40. Anatomical Pathology | 5 |
| 41. Chemical Pathology | 8 |
| 42. Forensic Pathology | 7 |
| 43. Haematology | 7 |
| 44. Immunology | 2 |
| 45. Clinical Microbiology & Infection | 27 |
| 46. Palliative Medicine | 12 |
| 47. Clinical Pharmacology & Therapeutics | 0 |
| 48. Rehabilitation | 25 |
| 49. Gynaecological Oncology | 2 |
| 50. Urogynaecology | 3 |
| 51. Reproductive Medicine | 6 |
| 52. Maternal and Fetal Medicine | 0 |
| 53. Pain Medicine | 0 |
| 54. Paediatric Immunology & Infectious Diseases | 0 |
| Total : | 5,633 |