

香港醫務委員會

THE MEDICAL COUNCIL OF HONG KONG

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Functions and Roles of the Medical Council and its Statutory Committees

Medical Council

The basic functions of the Medical Council are governed by the Medical Registration Ordinance, Cap 161, Laws of Hong Kong. In short, it is responsible for the registration, examination and disciplinary proceedings regarding professional misconduct of all registered medical practitioners. Its major roles are:-

- (a) to protect the public;
- (b) to promote trust in the profession;
- (c) to ensure good and ethical standards of practice of the profession; and
- (d) to provide general guidance to registered medical practitioners.

Licentiate Committee

The functions are similar to the previous Licentiate Committee, i.e. mainly responsible for the conduct of the Licensing Examination.

Preliminary Investigation Committee

- (a) to make preliminary investigations into complaints or information touching on any matters that may be inquired into by the Council or heard by the Health Committee and to give advice on the matters to any registered medical practitioner;
- (b) to make recommendations to the Council for the holding of an inquiry under section 21;
- (c) to make recommendations to the Health Committee for conducting a hearing;

- (d) to make preliminary investigations upon a referral by the Education and Accreditation Committee.

Education and Accreditation Committee

- (a) to determine, upon the recommendation of the Academy of Medicine, 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 Academy of Medicine, the qualification, experience and any other attributes that qualify a registered medical practitioner to have his/her name included in the Specialist Register under a particular specialty determined by the committee under para (a);
- (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;
- (e) to recommend to the Council whether the name of a registered medical practitioner should be included in or removed from the Specialist Register.

Ethics Committee

- (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;
- (b) to advise and make recommendations to the Council on matters relating to medical ethics and professional conduct generally.

Health Committee

- (a) to conduct a hearing into any case or matter concerning the health or physical fitness to practise of any registered medical practitioner, whether the case or matter has been investigated by the Preliminary Investigation Committee or not;
- (b) to conduct a hearing into matters referred to it by the Council under section 21(1);
- (c) to make a recommendation, after due hearing conducted under para (a) or (b) into a case or matter, 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 Health committee, where appropriate;
- (d) to recommend the extension, not exceeding 12 months, of a period of temporary removal of name recommended under para (c).

Specialist Registration

Hursuant to section 20K of the Medical Registration Ordinance, Chapter 161 Laws of Hong Kong, where the Registrar is satisfied that an applicant

- (a) has been-
 - (i) awarded a Fellowship of the Hong Kong Academy of Medicine (HKAM); and
 - (ii) certified by the HKAM that he has completed the postgraduate medical training and has satisfied the continuing medical education requirements for the relevant specialty; or
- (b) has been certified by the HKAM that he has achieved a professional standard comparable to that recognized by the HKAM for the award of its fellowship and has completed the postgraduate medical training and satisfied the continuing medical education requirements comparable to those recommended by the HKAM, for the relevant specialty,

the Registrar shall refer the application to the Education and Accreditation Committee under the Medical Council for its consideration. On referral by the

Registrar, if the Committee is also satisfied that the applicant is of good character, it shall recommend to the Medical Council that the name of the applicant be included in the Specialist Register.

Concern was raised by some registered doctors about the production of character reference letter from at least 2 persons when the applicant submitted his/her application for specialist registration.

Such requirement is based on section 20K(6) of the Medical Registration Ordinance which provided that "the Education and Accreditation Committee shall, if it is also satisfied that the applicant is of good character, recommend to the Council that his name be included in the Specialist Register". The requirement of character reference letter is stipulated in section 4(3)(h) of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation. Such requirement would facilitate the proof of the character of an applicant, who had obtained first registration with the Medical Council for a considerable length of time, to the satisfaction of the Education and Accreditation Committee in recommending the name of that doctor to be included in the Specialist Register.

It is noted that some registered doctors experienced confusion between the role of the Hong Kong Academy of Medicine and that of the Medical Council in respect of specialist registration. Some even wondered why the list of specialists maintained by the Academy could not be transferred to the Medical Council directly. In addition, some doctors expressed concern about the requirement of the production of character reference letters and the declaration of particulars in the completed application form before a Commissioner for Oaths, a lawyer or a notary public. Clarification is made here that these requirements are actually demanded by law.

Applicants who submitted their applications after 15 January 1998 please note that specialist registration is an ongoing exercise and the approved lists of specialists will be updated monthly.

Design of Logo

A Task Force has been formed to prepare for soliciting logo designs and assessment of entries. They are expected to complete the work by May this year.

Submission of Evidence of No Conviction-Questions and Answers

Hnder the provisions of section 20A(2) of the Medical Registration Ordinance, Cap.161, an annual practicing certificate is issued to a registered medical practitioner upon his application and subject to the payment of the required fee and "the submission of evidence that the registered medical practitioner has not been convicted in Hong Kong or elsewhere of any offence punishable with imprisonment."

1.Q: Why was this requirement included in the MRO?

A: This was added to the MRO in the course of the legislative process by the Bills Committee of the then Legislative Council in 1996. At that time the members of the Legislative Council were concerned by a number of cases involving the Stock

Exchange and a dentist who were discovered to have previously committed criminal offences.

2.Q: What are the relevant sections in the MRO?

A: The relevant sections are:
S.5 Duties of Registrar relating to practicing certificates and certificates under section 19A of Ordinance (Miscellaneous Provisions)

(1) Application for the issue of a practicing certificate or a certificate under section 19A of the Ordinance must be

- (a) in writing;
- (b) accompanied by the appropriate prescribed fee; and

- (c) supported by a **declaration by the applicant** as to whether or not he has been convicted of an offence punishable with imprisonment, in Hong Kong or elsewhere.

Medical Registration Ordinance

S.20A. Medical practitioner not to practice without practicing certificate

(2) On application made to the Registrar for the purpose of the issue of a practicing certificate by a registered medical practitioner, and subject to -

- (a) the payment of the prescribed fee for the issue of a practicing certificate; and
- (b) the submission of evidence

that the registered medical practitioner has not been convicted in Hong Kong or elsewhere of any offence punishable with imprisonment, the Registrar shall issue to the registered medical practitioner a certificate to the effect that he is, subject to any conditions and restrictions specified in the certificate, entitled to practice medicine, surgery and midwifery in Hong Kong.

3.Q: Under the relevant sections is a sworn statement necessary?

A: The Registrar will accept a simple declaration by an applicant as evidence of no conviction. This is reiterated in section 5(1)(c) of the Medical Registration (Miscellaneous Provisions) Regulation. The declaration needs only to be signed by the applicant; there is no need for it to be sworn.

4.Q: What will happen if the applicant omits to declare a conviction.

A: The Medical Council recognizes that a person may inadvertently omit to declare a conviction. Such an omission, with no intent to mislead the Registrar, will not open the applicant to prosecution by itself. However if the omission is made deliberately, with an intent to mislead, the applicant may be liable to a disciplinary inquiry.

5.Q: What period should be covered by the declaration?

A: (a) Upon first application, since the date of the declaration made for the purpose of registration;
(b) Upon application for renewal, since the date of the last application.

6.Q: What are offences punishable by imprisonment?

A: (a) It is the applicant's responsibility to ascertain whether the offence is one punishable by imprisonment. The actual sentence imposed on the

applicant does not determine whether it is a relevant conviction: it is whether the offence itself is punishable by imprisonment. The payment of a fixed penalty ticket is not a conviction;

(b) To ascertain whether an offence is a relevant offence, the applicant can research the matter himself/herself or consult his/her own lawyer. If he/she does not wish to make his/her own enquiries, he/she may declare all his/her convictions in his/her application and the Secretary will identify those which are punishable by imprisonment and will ignore those that are not;

(c) Under section 21(1)(a) of the Medical Registration Ordinance the Medical Council has disciplinary powers where a registered medical practitioner has been convicted in Hong Kong or elsewhere of an offence punishable by imprisonment. In practice, the Medical Council would not proceed with a disciplinary inquiry in respect of a minor offence. It remains the responsibility of the applicant to declare the conviction. The conviction and the surrounding circumstances will be considered in accordance with the procedures set out in the Medical Practitioners (Registration and Disciplinary Procedure) Regulation;

(d) It is not possible to provide an exhaustive list of those offences which will not result in disciplinary proceedings. It is unlikely that those offences which result in small fines or a conditional or absolute discharge, such as minor traffic offences would result in disciplinary proceedings. Offences of theft, offences involving dishonesty or fraud, offences involving injury, or the

risk of injury to persons, offences where the offender's conduct was disgraceful, unethical, dishonorable or could bring the profession into disrepute are likely to result in disciplinary proceedings.

7.Q: Is there a system whereby the courts can inform the Council of any convictions concerning registered medical practitioners?

A: There is no such system nor can the Council make such a request to the judiciary.

8.Q: Is there any way by which the requirement can be rescinded.

A: Yes, through an amendment of the MRO. This will require convincing the Health and Welfare Bureau or a member of the Legislative Council to move for an amendment. At the end of the day it will depend on whether the medical profession can muster sufficient votes in the Legislative Council to pass the amendment.

Homepage

The Medical Council has recently launched its homepage (www.mchk.org.hk) on the internet. The public can get access to the following information via internet :-

- Membership of the Medical Council and its committees.
- Content of the Medical Registration Ordinance.
- Content of the Council's Professional Code and Conduct.
- List of registered doctors.

Enquiries

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Summary of the Ethics Committee's Deliberations on the Professional Code and Conduct

- (I) Advertising, canvassing and information dissemination;
- (II) Fees splitting, financial arrangement between practitioner and insurance company;
- (III) Complementary / alternative medicine;
- (IV) Euthanasia;
- (V) Organ transplant;
- (VI) Scientifically assisted reproduction;
- (VII) Prenatal diagnosis and intrauterine intervention;
- (VIII) Use of dangerous drugs;
- (IX) Patients' rights for medical information.

Invitation To Submit Views

The Ethics Committee is presently reviewing the Code of Practice. Those who are interested are welcome to express their views or propose any additions or amendments.

Membership List of the Medical Council

Prof. Felice LIEH-MAK, CBE, JP (麥列菲菲教授)	Dr. LEUNG Yat-wai, John (梁日偉)
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A Brief Report on the First Open Forum

A total of 101 registered medical practitioners attended the open forum held on 29 October 1997 at the Hospital Authority Building. The following issues were discussed at the Open Forum :-

Second Open Forum to be held on 25 March 1998 (Wednesday)

Please attend!

Issue

Remark

- (a) Objection was raised on the requirement of submission of no conviction punishable with imprisonment in application of renewal of annual practising certificates under section 20A(1) of the Medical Registration Ordinance. Amendment to the MRO was suggested. Follow-up discussion at the Medical Council required.
- (b) A case of improper labelling of drugs issued by the Hospital Authority was mentioned. This case has been referred to the Pharmacy and Poisons Board for follow-up action.
- (c) Guidelines should be given to doctors regarding request of medical records from government departments e.g. the IRD, which might contravene the protection of patients' privacy. Council will write to the Privacy Commission for opinion.
- (d) Concern was expressed on the need and possibility of setting up an independent body to monitor medical incident as suggested by the Provisional Legislative Council (PLC). This has NOT been further pursued by the PLC.
- (e) The need for doctors to obtain written consent from patients before doing the surgery was raised. This is really for the doctor's own protection. There is no legal requirement for a written consent.
- (f) Prior consultation with medical practitioners should be required before the Medical Council adds the guidelines on dangerous drugs to the Professional Code. The Council is open to suggestions via announcement in this Newsletter.
- (g) The publicity by the Hospital Authority and even private hospitals might constitute "Canvassing". Follow-up discussion at the Ethics Committee of the Medical Council required.
- (h) Some members of the public abused the complaint mechanism and steps should be taken to prevent such kind of abuse. The PIC screening procedure limits this.
- (i) The need for setting up specialist register in relation to the existing system of quotable qualifications was raised. Also, it was suggested that the specialist register should be a restrictive one and patients should be referred by the general physician to a specialist. The Academy of Medicine has already replied to this issue.
- (j) Worries were expressed about the erosion of medical autonomy through amendments by LegCo councillors as in the passage of the Medical Registration (Transitional Provision) Bill introduced by the Hon. Mrs Selina Chow. The Council will proactively look at issues but will need members of the profession to help explain our position.