



## **MALAYSIAN MEDICAL COUNCIL**

# **MANAGING IMPAIRED REGISTERED MEDICAL PRACTITIONERS**

### **GUIDELINE OF THE MALAYSIAN MEDICAL COUNCIL**

**MMC Guideline 001/2010**

#### **PRELUDE**

**This Guideline complements, and should be read in conjunction with the Code of Professional Conduct of the Malaysian Medical Council (MMC).**

In this Guideline, the words “doctor”, “Physician”, “medical practitioner” and “practitioner” are used interchangeably, and refer to any person registered as a medical practitioner under the Medical Act 1971. The words “hospital” and “healthcare Facility and service” are used interchangeably and refer to any premises in which members of the public receive healthcare services. Words denoting one gender shall include the other gender. Words denoting a singular number shall include the plural and vice versa.

**Adopted by the Malaysian Medical Council on 12/1/2010**

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## **FOREWORD**

The Malaysian Medical Council, with the objective of ensuring that registered medical practitioners are fully aware of the codes of professional medical practice, issues directives and guidelines from time to time. The purpose of these codes, guidelines and directive is to safeguard the patient and members of the public, to ensure propriety in professional practice and to prevent abuse of professional privileges.

The Guidelines are designed to complement, and should be read in conjunction with, the Medical Act and Regulations, Code of Professional Conduct of the Malaysian Medical Council and other Guidelines issued by the Council or any related organizations, as well as any statute or statutory provisions in force and all related statutory instruments or orders made pursuant thereto.

This Guidelines on the **Managing Impaired Registered Medical Practitioners** has been prepared with careful attention to details, cognisant of the current international stand on the subject. The draft has been reviewed numerous times by the Malaysian Medical Council and includes valuable responses from individuals, organisations and professional bodies in the country, before formal adoption by the Council.

The Guidelines is available in the printed form as well as in the MMC website. Registered medical practitioners are advised to familiarise themselves with the contents, as they will serve as documents to refer to or to seek clarifications from, when they need guidance on matters of professional ethics, codes of professional conduct and medical practice in general.

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### 1. Preamble

Impaired implies an enduring condition which, without effective treatment, is not amendable to remission.

An **impaired registered** medical practitioner is one who is unable to fulfill professional or personal responsibilities and consequently is unable to practice medicine with reasonable skill and safety to patients because of physical or mental illness, including deterioration through the aging process or loss of motor skill, or excessive substance use or abuse.

**By contrast, the *incompetent* practitioner is ignorant or lacks appropriate skills but is not ill, while the *unethical* practitioner, knowingly and willingly violates fundamental norms of conduct towards others, especially his/her patients. Although these are distinct concepts they do overlap occasionally.**

Impaired medical practitioners are not uncommon, and generally it is known that a small percent of practitioners will have a problem affecting their ability to practice medicine at some point in their careers.

After assessment by an independent relevant specialist or panel, there are basic considerations in managing impaired registered medical practitioners, (1) whether the practitioner is suffering from an illness or condition which has seriously impaired or may seriously impair his ability to practise ; (2) whether he needs support during treatment and rehabilitation, and (3) whether his illness or condition may result in the community being put at risk should he be allowed to continue practising as part of his rehabilitation programme as determined by the Council during treatment.

### 2. Authority to conduct Assessment of Impaired Registered Medical Practitioner

The Malaysian Medical Council, being the registering and licensing authority, empowered by the Medical Act, 1971, shall be the body to assess impaired registered medical practitioners and to decide on their further management and fitness to practise.

In all matters dealing with impaired registered medical practitioners, including practitioners refusing to attend Medical Review Panel/Fitness to Practice Committee, relevant sections of the Act and Regulations 1974 shall apply.

It is not appropriate for a healthcare facility or similar organisation to conduct assessment of impaired registered medical practitioners. Such responsibilities should be left to the Malaysian Medical Council, with the facility providing notification, documents and assistance to the Council in the conduct of such assessment.

### 3. Criteria of Impairment

**One or more of the following conditions may give rise to impairment in practitioners:**

- **Mental illness;**
- **Neurological illness (CVA, dementia);**
- **Substance abuse and dependence;**
- **Physical disabilities (or handicap); and**

- Medical conditions, including those related to ageing and chronic infections.
- Any other condition which in the opinion of the Malaysian Medical Council may give rise to impairment in a practitioner

The clues to impending or established impairment may not always be clear cut.

A registered medical practitioner who is impaired may go through subtle personality changes as the disease progresses. Mood swings may occur, ranging from irritability, outbursts of anger, and paranoia to sudden euphoria and hyperactivity. He may be frequently absent; behave badly with staff and patients; give inappropriate orders; and his handwriting may deteriorate. Symptoms of chemical dependence include declining personal hygiene, multiple physical complaints, frequent hospitalization or visits to physicians, and accidents. The physician may withdraw from involvement in community activities and display embarrassing behavior at parties. Physical signs, such as involuntary tremours, slurring of speech, and gait abnormalities, often provide obvious manifestations of underlying problems.

#### 4. Reporting organisations or persons:

The organisation or persons who would normally be expected to report or notify on impaired registered medical practitioners would include:

- State health directors who may have access to the outcomes of inquiries or judicial hearings into incidents involving problematic doctors either in the government or private sectors;
- Persons in Charge of private healthcare facilities and services;
- Malaysian Medical Association, Academy of Medicine Malaysia, Academy of Family Physicians, Federation of Private Medical Practitioners' Association and Association of Private Hospitals Malaysia, and other medical professional bodies;
- Psychiatrists or physicians treating registered medical practitioners if they are of the opinion that their patients' condition will impair his ability to practice;
- Individual registered medical practitioners ("whistle-blowers").

#### 5. Responsibility, Process of Reporting and Legal Protection

It is the ethical responsibility of registered medical practitioners to report impaired registered medical practitioners (and colleagues) who fulfill the above criteria and whose continued performance and practice would put patients and the community at risk. Such report should normally be directed to the most senior registered medical practitioner in the healthcare facility, (and also the licensee, Person in Charge) and/or directly to the Malaysian Medical Council.

Person in Charge of private healthcare facilities or services is vicariously responsible for the continued practice of any impaired registered medical practitioner in the healthcare facility or service. Confidentiality should be maintained at all times, and the identity of the colleague who makes the complaint ("the whistle-blower") should be closely guarded.

The process of reporting on impaired registered medical practitioners by colleagues and medical administrators of healthcare facilities has to be without prejudice and formally streamlined, as such reporting may lead to lawsuits and other unpleasant consequences. It is therefore necessary to accord legal protection to the persons making such reports.

### 6. Impaired Registered Medical Practitioners during Training

Registered medical practitioners undergoing houseman training as well as post graduate and other trainings who are found to be impaired in the performance of their duties need to be identified and closely monitored. When there are reasons to believe that such a practitioner is impaired, he should be reported by the supervising specialist through the Hospital Director to the Malaysian Medical Council, which will then take steps to assess such doctor and make appropriate recommendations.

### 7. Role of the Malaysian Medical Council

When a notification or complaint is received about an impaired registered medical practitioner, the MMC shall convene a Committee (the Fitness to Practice Committee/Medical Review Panel) to review the evidence to ensure that the complaint is without prejudice, relevant, complete and valid.

The registered medical practitioner involved shall be informed of the decision of the Council and the Committee shall arrange an interview with the registered medical practitioner and an assessment of his condition be made. The impairment of a registered medical practitioner will not be decided solely on his medical condition. The Important aspects of his assessment will include:

- Compliance to treatment and follow-up
- Physical and cognitive impairment
- Remission of symptoms with treatment
- Insight into his condition
- Skill specifically in relation to his professional practice.

After due investigation and interview the Committee shall determine if the registered medical practitioner's fitness to practice is found to be impaired and shall inform the Council accordingly.

The Council shall, if it agrees with the findings of the Committee, and if there is sufficient evidence of impairment, determine if it is necessary to temporarily suspend, restrict the registered medical practitioner's right to practice by stipulating conditions, remove his name from the Register, or make any other recommendations as the Medical Council may deem fit.

The registered medical practitioner should subsequently be referred to a relevant specialist (e.g. a psychiatrist, neurologist, or others) to treat his condition

### 8. Role of Preliminary Investigating Committee (PIC) in Special Circumstances

The PIC, if, in the course of investigating a registered medical practitioner for professional misconduct, has reason to believe that the practitioner (respondent) is impaired, shall adjourn the hearing and refer the registered medical practitioner to the Council with recommendations that he be subjected to a Medical Review Panel/Fitness to Practise Committee. The Council, guided by the findings and recommendations of the Medical Review Panel/Fitness to Practise Committee, shall then determine if the registered medical practitioner should continue to attend the PIC hearing or shall otherwise make directions as for an impaired registered medical practitioner.

In circumstances when there appears to be concomitant professional misconduct by the registered medical practitioner, in addition to impairment as defined above, he may be referred by the President of Council to the Preliminary Investigating Committee. The PIC shall then investigate and advise the Council accordingly.

### 9. The Right of Appeal

The registered medical practitioner found impaired shall have the right of appeal and reinstatement to the Register if subsequently determined to have recovered or fully rehabilitated and fit to practise.

## 10. Further Reading

### 1. A Guide to the Essentials of a Modern Medical Practice Act

Tenth Edition

Approved by the House of Delegates of the Federation of State Medical Boards of the United States, Inc.,

as policy April 2003

[http://www.fsmb.org/pdf/2003\\_grpol\\_Modern\\_Medical\\_Practice\\_Act.pdf](http://www.fsmb.org/pdf/2003_grpol_Modern_Medical_Practice_Act.pdf)

2. Title	68:	Professions	And	Occupations
Chapter	Vii:	Department	Of	Professional
Subchapter	B:		Financial Professions	And
				Regulation Occupations

Part 1285 Medical Practice Act Of 1987

<http://www.ilga.gov/commission/jcar/admincode/068/06801285sections.html>

### 3. New South Wales Consolidated Acts

#### MEDICAL PRACTICE ACT 1992

- As at 1 August 2008
- Act 94 of 1992

[http://www.austlii.edu.au/au/legis/nsw/consol\\_act/mpa1992128/](http://www.austlii.edu.au/au/legis/nsw/consol_act/mpa1992128/)

### 4. GP Health : Impaired Doctors

#### The modern approach of medical boards

The Royal Australian College of General Practitioners (RACGP) ABN 34 000 223 807, 8 August 2001

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