

Commencement of the Medical Registration (Amendment) Act 2020

*I*n 2019, the Ministry of Health appointed the Workgroup to Review the Taking of Informed Consent and SMC Disciplinary Process. Key recommendations from the Workgroup were drafted in the Medical Registration (Amendment) Act 2020 (“MRAA”), which was passed by Parliament in October 2020. The MRAA came into force on 1 July 2022.

The amendments under the MRAA in relation to SMC disciplinary processes cover both structural changes, as well as improvements made to procedure. This article recaps the salient aspects of the MRAA, and highlights how these changes bring about (1) greater transparency in the disciplinary process, (2) quicker resolution of complaints, as well as (3) consistent and fair enforcement of standards.

Greater transparency in the disciplinary process

Independence of Disciplinary Tribunal – Currently, disciplinary inquiries are held before the Disciplinary Tribunal (“DT”), which is appointed by the SMC. The MRAA establishes a Disciplinary Commission (“DC”) which is separate and independent of the SMC. It is the DC that appoints the Disciplinary Tribunal, according to specific criteria. The DC also oversees training and qualification of DT members. The DC will be headed by a senior doctor as its President, and will receive legal advice and secretariat support from a unit independent of the SMC.

Transparency of appeal against Complaint Committee's decisions – Presently, if a complaint is dismissed by the Complaints Committee (“CC”), an appeal may be made to the Minister, who may send the complaint back to the CC for further investigations. The MRAA replaces this appeal process with an application for review of a CC decision made to a Review Committee (“RC”). The RC will comprise a doctor, legal professional and layperson. The MRAA makes clear that the RC may only make an order on whether the CC has complied with the applicable legal procedure, or direct a further inquiry or rehearing where (i) the CC did not comply, or (ii) there is new evidence submitted to the RC that is material to the complaint or matter.

Quicker resolution of complaints

Introduction of time bars – Under the present Medical Registration Act (“MRA”), there is no limitation period for lodging a complaint. The MRAA introduces a 6-year time bar to file complaints to the SMC. Complaints which are submitted more than 6 years from the date of the conduct involved, or from the earliest date the complainant had knowledge of it, will not be referred to the Chairman of the Complaints Panel (“CP”). The only exception is if the President of the DC assesses that it is in the public interest to do so.

Faster notification of complaints to medical practitioners – Currently, a medical practitioner is only notified of a complaint after investigations have been directed and the CC finds that the medical practitioner has a case to explain. Moving forward, medical practitioners will be notified once a complaint is made against them.

Strict control of timelines – There is currently no limit to the extensions of time which the various disciplinary committees can be granted to complete their inquiries. Under the MRAA, the ICs, CCs, DTs and RCs will be able to seek only one extension of time from the Chairman of the CP or the President of the DC. Subsequent extensions of time will require the SMC to apply to the High Court.

Consistent and fair enforcement of standards
Improved process for referral of matters to DT – Under the old MRA, the CC alone decides whether to direct a formal inquiry, with no room for the SMC to disagree and without the need to draft charges. Under the MRAA, where the CC opines there is need for a formal inquiry, it recommends to the SMC that an inquiry should be held, and must formulate charges against the respondent medical practitioner. It is the SMC that then decides whether a complaint should be referred to the President of the DC for a formal DT inquiry. A case will only be referred to the DT where there is cause of sufficient gravity.

Guarding against piecemeal submission of documents and evidence – There has been feedback that complainants sometimes submit documents and information in a piecemeal fashion. Under the MRAA, a complainant will have to provide all relevant documents and information in their possession at the time of submitting a complaint. The same applies for the respondent medical practitioner when responding to the complaint.

In the lead-up to the MRAA taking effect, the SMC has been working closely with the MOH and other stakeholders involved to implement the necessary frameworks and processes. The SMC is confident and hopeful that the MRAA will bring about an improved regulatory system that is fair and effective.