

KNOWLEDGESHARE ALERT



6 July 2022

Dear Clients & Friends

New disciplinary processes for registered medical practitioners and new standard of care parameters for medical advice by healthcare professionals

On 1 July 2022, new disciplinary processes for registered medical practitioners (“**RMP**”) and new standard of care parameters for medical advice given by healthcare professionals came into force, with the commencement of the Medical Registration (Amendment) Act 2020 (“**MR(A)A**”) and Civil Law (Amendment) Act 2020 (“**CL(A)A**”). The commencement of new disciplinary processes, including the establishment of the Disciplinary Commission (“**DC**”), was announced in a circular by the Singapore Medical Council (“**SMC**”) dated 1 July 2022 (“**Circular**”).

A summary of the new disciplinary process and new standard of care parameters is set out below.

New disciplinary processes for registered medical practitioners

With the commencement of the MR(A)A, complaints filed with the SMC, or referred directly to the DC by the SMC, on or after 1 July 2022, will follow the new processes under the amended MRA.

Features of the new disciplinary process include the introduction of an Inquiry Committee, establishment of a Review Committee to review Complaints Committee decisions, and the introduction of the DC. The DC will be responsible for appointing and overseeing the procedures and processes of the Disciplinary Tribunals (“**DTs**”). The formation of a new DC addresses concerns about the perceived lack of independence of the DTs that are currently appointed by the SMC by ensuring that there is a clear separation of investigation-prosecution and adjudication functions.

The President and members of the DC are set out in the Circular.

The MR(A)A also introduces new procedural mechanisms such as (1) a requirement that a written notice be given to a RMP where an investigation is directed by an Inquiry Committee, a Complaints Committee or a DT, (2) the introduction of time bars, and (3) process changes to empower the Interim Orders Committee to issue an immediate interim order without giving the RMP in question an opportunity to be heard where it is satisfied, or the SMC has certified that it is of the view, that the RMP's conduct poses an imminent danger to patient health or safety.

A flowchart with an overview of the revised medical disciplinary process is set out in Appendix 1 to the Circular.

New standard of care parameters for healthcare professionals

The amendments made by the CL(A)A sets out the legal test in respect of the standard of care for medical advice given by healthcare professionals. This test prevails over existing common law on the standard of care for medical advice (i.e. the “Modified Montgomery” test framed by the Court of Appeal in *Hii Chii Kok v Ooi Peng Jin London Lucien & Anor* [2017] SGCA 38) to the extent of inconsistency between those provisions and common law. The common law in this area will continue to apply where it is not inconsistent with the provisions of the CL(A)A. It should be noted that the CL(A)A does not deal with, and does not affect existing common law on, the standard of care for medical diagnosis and medical treatment carried out by healthcare professionals (where the *Bolam-Bolitho* test continues to apply).

To meet the standard of care expected of healthcare professionals in the provision of medical advice, the healthcare professional must act in a manner acceptable by a respectable body of medical opinion (“**peer professional opinion**”) (i.e. in a manner regarded as reasonable professional practice in the circumstances), provided that such peer professional opinion is logical. A peer professional opinion is logical where:

- The body of healthcare professionals holding the opinion has directed its mind to the comparative risks and benefits relating to the matter, and
- The opinion is internally consistent and does not contradict proven extrinsic facts relevant to the matter.

The mere fact of differing professional opinions does not preclude the peer professional opinion from being relied on.

The peer professional opinion must:

- Require the healthcare professional to have given or caused to be given to the patient:
 - Information that a person in the same circumstances as the patient would reasonably require to make an informed decision about whether to undergo a treatment or follow medical advice. The patient's circumstances are those which the healthcare professional knows or ought reasonably to know; and

- Information that the healthcare professional knows or ought reasonably to know is material to the patient for the purpose of making an informed decision about whether to undergo a treatment or follow a medical advice. The CL(A)A explains that this refers to information which a person in the same circumstances as the patient would not reasonably require to make an informed decision about the treatment or medical advice, but which is important to the patient, for the patient's personal, even idiosyncratic, reasons (“**patient's personal reasons**”) for the purpose of making an informed decision; and
- Support the non-provision of any information mentioned above only where there is reasonable justification.

An assessment of whether information is material to a patient for the purpose of making an informed decision about whether to undergo a treatment or follow a medical advice by reason of the patient's personal reasons must be based on the following:

- The patient's specific concerns or queries about the treatment or medical advice as expressly communicated by the patient to the healthcare professional; and
- The patient's specific concerns or queries about the treatment or medical advice which are not expressly communicated but which ought to be apparent to the healthcare professional from the patient's medical records that the healthcare professional has reasonable access to and ought reasonably to review.

Background

The Medical Registration (Amendment) Bill and Civil Law (Amendment) Bill were passed in Parliament on 6 October 2020, and were the result of the report of the Workgroup to Review the Taking of Informed Consent and the Singapore Medical Council's Disciplinary Process issued on 27 November 2019. More details are set out in our article titled “[Amendment Bills introduce new disciplinary processes for registered medical practitioners and new standard of care parameters for all healthcare professionals](#)”.

Reference materials

The following materials are available on the Singapore Statutes Online sso.agc.gov.sg website and SMC website www.healthprofessionals.gov.sg/smc:

- Civil Law (Amendment) Act 2020
- Medical Registration (Amendment) Act 2020
- Civil Law (Amendment) Act 2020 (Commencement) Notification 2022
- Medical Registration (Amendment) Act 2020 (Commencement) Notification 2022
- Medical Registration (Disciplinary Commission and Disciplinary Tribunal) Rules 2022
- Medical Registration (Amendment) Act 2020 (Saving Provision) Regulations 2022
- Medical Registration (Amendment) Regulations 2022

- SMC Circular: Commencement of the Medical Registration (Amendment) Act 2020
 - Appendix 1 - Singapore Medical Council Disciplinary Process
- Disciplinary Commission press release

Further information

Should you have any queries on this or any other development, please do not hesitate to get in touch with your usual contact at Allen & Gledhill or any of the following:

Kang Yanyi
+65 6890 7467
kang.yanyi@allenandgledhill.com

Koh En Ying
+65 6890 7507
koh.enying@allenandgledhill.com

Mak Wei Munn
+65 6890 7885
mak.weimunn@allenandgledhill.com

Christine Tee
+65 6890 7899
christine.tee@allenandgledhill.com

Tham Hsu Hsien
+65 6890 7820
tham.hsuhsien@allenandgledhill.com

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Allen & Gledhill
Singapore



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Allen & Gledhill LLP

Publications | Allen & Gledhill LLP

T +65 6890 7477 | F +65 6327 3800 | publications@allenandgledhill.com

One Marina Boulevard #28-00 Singapore 018989 | www.allenandgledhill.com