

**Removal from Specialist Register
Role of the Academy**

Provisions in MRO

1. Under the Medical Registration Ordinance (“**MRO**”), there are three situations in which a specialist may be removed from the Specialist Register (“**SR**”). They are as follows:
 - a) Section 21 of the MRO provides that, if after due inquiry the Medical Council finds that a registered medical practitioner has been, among other things, guilty of misconduct in any professional respect, the Medical Council may, among other things, order that the name of the registered medical practitioner be removed from the SR.
 - b) Section 20N of the MRO provides that, where the Education and Accreditation Committee (“**EAC**”) of the Medical Council comes to the notice of any complaint or information relating to the suitability of a registered medical practitioner to have his name removed from the SR, including but not limited to qualification and experience, the EAC may, after considering all the circumstances of the case, recommend to the Medical Council that the name of the registered medical practitioner be removed from the SR, permanently or for a period of time. Upon such recommendation of the EAC, section 19B(2) of the MRO provides that the Medical Council may order the removal of the name of a registered medical practitioner from the SR permanently or for a period of time.
 - c) Section 19(1) of the MRO provides that the Medical Council may order the removal from the General Register of the name of any person who, among other things, has not, before 30 June of a year, obtained his practising certificate for that year. Section 19B(1) then provides that, if the Medical Council orders a removal of the name of a person under section 19(1) and that person’s name is also included in the SR, the Registrar shall, at the same time when he removes that person’s name from the General Register, also order the removal of his name from the SR.

Legal Advice

2. According to the Honorary Legal Advisor, there is no role for the Academy or any Academy Colleges in the above statutory framework. The EAC cannot delegate its power to an Academy College. The Academy is not required to be consulted before a removal from the SR, nor should the Academy entertain a consultation.
3. That the Academy has no role in the above statutory framework may seem inconsistent with the role played by the Academy in the inclusion of a registered medical practitioner in the SR under section 20K of the MRO, but that is the legal position.

Appeal against decision of the EAC and orders of the Medical Council

4. Section 20O of the MRO provides that within 14 days after receiving a notification under section 20N(4), the registered medical practitioner may appeal against the decision of the EAC to the Medical Council in writing setting out the reasons relied upon. And in determining an appeal, the Medical Council may (a) invite the appellant to appear before it to give further submission; and (b) allow counsel or solicitor to appear on behalf of the appellant.
5. Section 26 provides that any registered medical practitioner who is aggrieved by any order made by the Medical Council in respect of him under section 19, 19B, 21 or 21A may appeal to the Court of Appeal, and the Court of Appeal may thereupon affirm, reverse or vary the order appealed against, or remit the case to the Council for an, or another, inquiry.

Can a registered medical practitioner apply to re-enter the SR after his name has been removed from SR?

6. The following paragraph is extracted from Medical Council's letter of notification to registered medical practitioners whose names are to be removed from the SR:-

"Having considered the factual findings of the Council in the disciplinary inquiry, the Committee decided to recommend under section 20N(1)(d)(i) of the Medical Registration Ordinance ("MRO") to the Council that your name be removed from the Specialist Register permanently, on the basis that you would not be debarred from making a fresh application for inclusion in the Specialist Register again when you become suitable for such inclusion."

7. Therefore, a registered medical practitioner whose name has been removed from SR can submit a new SR application again any time after his name has been removed, if he thinks he is suitable for such inclusion. Application form can be downloaded from:

http://www.dh.gov.hk/english/useful/useful_forms/useful_forms_hp.html#medical

At what stage can Academy Colleges offer assistance?

8. When making appeal to EAC or Medical Council against the decision / order to remove his name from the SR, a Fellow may approach his College. The College may consider, case by case, whether to furnish the Fellow with a reference letter commenting on his competency in the specialty concerned. The Fellow can submit the reference to the EAC and Medical Council for consideration. However, the final decision would still rest with EAC and the Medical Council.
9. Similarly, when a Fellow whose name has been removed from SR subsequently wishes to submit a new SR application, he may also contact his College for a reference letter regarding his competency in the specialty concerned.