

## Client Alert

March 2016

## Allied Health Professions Act 2016 expected to come into force early 2017

For further information, please contact:

Chew Kherk Ying  
+60 3 2298 7933  
[kherkying.chew@wongpartners.com](mailto:kherkying.chew@wongpartners.com)

Florence Tan  
+60 3 2298 7986  
[florence.tan@wongpartners.com](mailto:florence.tan@wongpartners.com)

For subscription enquiries, please contact:

Yau Tze Yip  
+60 3 2299 6433  
[tzeyip.yau@wongpartners.com](mailto:tzeyip.yau@wongpartners.com)

Wilson James  
+60 3 2298 7817  
[wilson.james@wongpartners.com](mailto:wilson.james@wongpartners.com)

### Background

While health care professionals and hospitals are fully regulated in Malaysia, there are other professionals within the health care industry which are to date largely left unregulated (“allied health professionals”) such as dietitians, physiotherapists, biochemists, occupational therapists, speech-language therapists, radiation therapists, medical laboratory technologists and others.

These allied health professionals will now be regulated under the new Allied Health Professions Act 2016 (“AHPA”) which received royal assent on 4 February 2016. The AHPA is expected to come into force early 2017. The Ministry of Health is currently in the midst of drafting regulations which will be made publicly available upon entry into force of the AHPA.

The primary purpose of this Act is to regulate the registration and practice of these allied health professions. Presently, the list of allied health professions that will be regulated under the AHPA stands at 23. This includes, audiologists, dietitians, entomologists, physiotherapists, medical physicists, nutritionists, clinical scientists (i.e. biochemists, biomedical, embryologists, medical geneticists and microbiologist), occupational therapists, speech-language therapists, radiation therapists, diagnostic radiographers, medical laboratory technologists, dental technologists, environmental health officers, health education officers, food service officers, forensic science officers and medical social officers. These professions are largely categorised into three groups: (i) clinical (twelve professions) (ii) public health (four professions) and (iii) laboratory work (seven professions).

Under the AHPA, the Malaysian Allied Health Professions Council (“the Council”) will be established under the AHPA for the purpose of regulating these allied health professions. The AHPA also extends to other key matters such as the issuance of practicing certificates and advertising, as will be discussed further below.

### Registration

The AHPA stipulates that all persons covered by the AHPA shall apply to be registered as an allied health practitioners within 12 months of the effective date of the AHPA, and may not practise unless registration

has been made with the Council. The application for registration only extends to Malaysian citizens of good character who holds a recognised qualification and has not been convicted of an offence involving fraud, dishonesty or an offence punishable with imprisonment for more than two years. In addition, the Council may also determine other pre-requisite requirements that need to be fulfilled as part of the registration process. However, the application process for registration is not yet publicly available, and remains to be determined by the Council.

A registered practitioner may also apply to be registered as an expert if the criteria laid out by the AHPA and the Council are met. This includes, amongst others, the attendance of a specialised training relating to his allied health profession in a recognised training institution, and a recognised qualification awarded by a recognised training institution.

### **Practising Certificates**

In addition to the registration requirement, a practitioner must also apply to the Council for a practising certificate before he can practice. The practising certification will specify the address of the practitioner's principal place of practice and all other places of practice of the registered practitioner. Application for a practising certificate extends to Malaysian practitioners and, in limited circumstances, to foreign practitioners, by way of a temporary practising certificate.

The practising certificates are not evergreen and is valid for a period of two years. Renewal is also subjected to an assessment of competency as may be determined by the Council. A registered practitioner who practices without a practicing certificate may be held liable upon conviction for either a fine not exceeding RM50,000 or imprisonment for a term not exceeding two years or both.

### **Advertisement**

In addition to the above, the AHPA also seeks to regulate advertising activities within the realm of the allied health profession. Advertising prohibitions laid out in the AHPA includes, amongst other things, making false claims or misleading representations or falsely holding out to the public as a registered or an expert practitioner.

For registered practitioners, contravention of the advertising prohibitions could attract either a fine not exceeding RM10,000 or imprisonment for a term not exceeding six months or both. If the offence subsists, the registered practitioner may be liable for a fine not exceeding RM500 per day.

As for unregistered practitioners, contravention could attract either a fine not exceeding RM50,000 or imprisonment for a term not exceeding two years or both.

## Employment of a person who is not a registered practitioner

The AHPA further hold employers liable for the act of employing a person who is not a registered practitioner to perform the duties and responsibilities of a practitioner of an allied health profession. In the case of an individual employer, the maximum penalty is a fine of RM50,000 and/or imprisonment for two years, and for a continuing offence, a fine of RM1,000 for every day the offence continues after conviction.

In the case of a body corporate, employment of such a person may result in a maximum fine of RM100,000 and a fine of RM5,000 for every day the offence continues after conviction. In addition, the person responsible for the office corporate shall also be guilty of the offence and attract the maximum penalty of a fine of RM100,000 and/or imprisonment for a term of two years.

## The Council

The Council will be vested with the power to exercise disciplinary authority over the registered practitioners. This includes the ability to set up an investigating committee to investigate any complaint or information received against a registered practitioner or any disciplinary matter, the ability to make interim orders, and the imposition of disciplinary punishment. Orders available at the Council's disposal include the suspension of registration, removal of the name of the registered practitioner from the register, and ordering the registered practitioner to be reprimanded.

## Conclusion

The AHPA is expected to bring about more robust regulation to the allied health profession, considering the establishment of a Council with actual regulatory powers. The AHPA will further be supplemented by directives and guidelines from the Council. The ambit of AHPA is further expected to expand to include additional types that will be considered part of the allied health professions in the future, given that it provides an avenue for any person to apply to the Council to include any profession or activity relating to allied health. The regulatory changes in the allied health profession domain may bring about a more aligned and coordinated medical and healthcare industry, by way of ensuring that all practitioners fulfil certain basic criteria and having a central governing body to monitor the allied health professions.

[www.wongpartners.com](http://www.wongpartners.com)

Wong & Partners  
Level 21, Suite 21.01  
The Gardens South Tower  
Mid Valley City  
Lingkaran Syed Putra  
59200 Kuala Lumpur