

### Fitness to Practise for Doctors and Medical Students with Mental Issues in Malaysia

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#### ABSTRACT

Mental illness is expected to become the second biggest health problem affecting Malaysians by 2020. Doctors and medical students are more prone to mental illness compared to the general population. However, they are often reluctant to and resist seeking help because of stigma and a (strong) sense of shame. This can lead to detrimental consequences for themselves and their patients. That said, a doctor with a mental illness receiving appropriate treatment and who is in a stable condition may still be permitted to practise provided patient safety is not compromised. Determining this is a key responsibility of a healthcare regulator like the Malaysian Medical Council (MMC). Using some prominent cases to illustrate this point, this article reviews the MMC guideline on 'Managing Impaired Registered Medical Practitioners'. In the absence of similar local guidelines for medical students, we also allude to the UK General Medical Council's guideline on 'Supporting Medical Students with Mental Health Conditions'. The article recommends that doctors and medical students with mental illness should seek help; outlines a number of factors to consider in deciding whether a doctor should continue practising; and explores alternative career paths in instances where they should not. The article concludes that appropriate support goes a long way for doctors and medical students who grapple with mental health issues in that there is hope and a way through a seemingly devastating situation.

**KEYWORDS:** Fitness to practise, mental health, mental illness, mental disorder, suicide, doctors, medical students, medical practitioners, Malaysian Medical Council (MMC)

#### INTRODUCTION

Mental illness involves significant and distressing changes in a person's thoughts, emotions and behaviors such that it affects the way they function on a daily basis and in a social setting [1]. In Malaysia, mental illness is on the rise and this is concerning. According to the National Health Morbidity Survey (NHMS), the prevalence of mental illness among adults in Malaysia increased exponentially from 10.7% in 1996 to 11.2% in 2006, and to 29.2% in 2015 [2]. By the year 2020, mental illness is expected to be the second biggest health problem affecting Malaysians (after heart disease) [2].

Similar to the general population, doctors are not immune to mental illnesses. There is evidence to suggest that doctors have a higher tendency of burnout,

mental illnesses, substance abuse and suicide rates compared to other professions and the general population [3]. A study in the United Kingdom (UK) showed that 10% to 20% of all doctors will become depressed at some point of their lives and these doctors are at a higher risk of suicide compared to the general population [4]. A Malaysian study also reported that 41.9% of medical students experienced some form of emotional disorder while in medical school [5]. However, doctors are often slow or reluctant to attend to their own health issues [3]. The reasons for this are varied and include feeling uncomfortable sharing their problems as a patient with a doctor who might also be their own colleague, a misperception of shame and the stigma within society towards mental illnesses. In addition, these doctors also have a fear that disclosing

their mental health status may jeopardize their fitness to practise and that their licences to practise may subsequently be withdrawn.

While the causes of distress that lead to mental illnesses amongst doctors are likely to be multifactorial, one of the main contributors is likely to be the long working hours and heavy workload that they encounter which often leads to sleep deprivation and burnout [4]. The existence of a ‘toxic working environment’ such as being bullied by senior doctors and having to manage unrealistic patients’ expectations are also factors that contribute to a stressful work environment for doctors [6].

Having described the problem faced by doctors and medical students with mental illnesses, we use several prominent cases overseas and in Malaysia to highlight the impact of mental illnesses on doctors and their medical career in the next section. Subsequently, we will review local fitness to practise guidelines issued by the Malaysian Medical Council (MMC) and to compare them with those abroad. Lastly, we will provide suggestions as to how this issue can be addressed.

## CASE EXAMPLES

### Case 1: Dr Wendy Potts [7]

*Dr Wendy Potts had been diagnosed with bipolar disorder and actively blogged about her condition and how it affected her life as a general practitioner. Unfortunately, a patient lodged a report against her with the General Medical Council (GMC) in the United Kingdom (UK) after having read her blog, and this led to her being suspended from practise. The suspension worsened her symptoms and she was believed to have committed suicide at home before she was found dead by her partner.*

Dr Potts’ case illustrates the stigma and public perception towards people who suffer from mental illnesses and how this stigma can lead to detrimental consequences. Although Dr Potts underwent the treatment required for her condition, her case also illustrates the impact of social media on one’s health problems. Social media has a powerful potential to attract unwanted publicity and healthcare professionals

need to be cautious and discreet about what they share on their social media account, be it a public or a private profile. This case illustrates how social media can blur the lines between what is personal and what is professional.

### Case 2: Dr Daksha Emson [8]

*Dr Daksha Emson, who worked as a psychiatrist in the UK, died nearly three weeks after she stabbed herself and her three-month-old child before setting both of them on fire. Her infant survived being stabbed but unfortunately died of smoke inhalation. Dr Emson had also been previously diagnosed with bipolar disorder following a failed suicide attempt in medical school. She was under follow-up for this condition but had stopped taking her medications prior to becoming pregnant. This incident occurred post-delivery and it was believed Dr Emson was experiencing a psychotic episode during that time.*

The case of Dr Emson highlights the need and importance of adhering to medications and therapies in cases of doctors with mental illnesses. It also highlights the fact that people with mental illnesses may not only harm themselves, but also those they are close to, which in this case led to the tragic death of her own child. This suggests that doctors with mental illnesses whose condition have not yet been optimised and are deemed unfit to practise place themselves and their patients at risk because their clinical judgement is impaired. As a result of this tragic incident, the National Health Service (NHS) Practitioner Health Programme was launched as a platform to provide a secure and confidential service to doctors and dentists with mental illnesses and/or addiction problems [9].

### Case 3: Dr Steven Miles [10]

*In 1994, Dr Steven Miles was diagnosed with bipolar II disorder. He readily admitted to his mental illness when he was asked if he had ever been diagnosed with any psychiatric conditions while applying to renew his medical licence. Consequently, the Minnesota Board of Medical Practice revised his case carefully before allowing him to resume his medical practice while receiving treatment for his condition. Dr Miles*

*continues his clinical practice to this day and his condition is well controlled with medications.*

Dr Miles' case illustrates that with proper treatment, a doctor with mental illness can continue to practise. That said, it is important to ensure that patient safety is not compromised.

These three cases portray doctors who were diagnosed with mental illnesses albeit with different outcomes. We now focus on reviewing guidelines regarding fitness to practise for doctors with mental illnesses, and how the MMC regulates this in Malaysia.

## **FITNESS TO PRACTICE**

### **Overview**

Doctors must establish and maintain effective relationships with patients, respect patients' autonomy and act responsibly and appropriately if they or a colleague falls ill and their performance suffers [11]. Determining the competency of doctors and their fitness to practise are key components of a healthcare regulator's function [4]. Therefore, regulators such as the MMC are primarily tasked with ensuring that the doctors on their register are and remain fit and safe to practise.

In New Zealand, a doctor is unfit to practise medicine if he or she is incapable of carrying out the functions involved in being a doctor [12]. These functions include making safe judgements along with demonstrating the level of skills and knowledge required for safe practise. The essence of being a doctor is more than just technical and clinical competence. It also includes good communication skills, keeping abreast of relevant laws, displaying appropriate attitudes and professionalism, as well as ethical behaviour. Where there are concerns with the doctor's health, the Health Practitioners Competence Assurance Act 2003 outlines several measures to take [13].

In the UK, the GMC does not regard adverse physical or mental health on its own to be conclusive of impairment. Rather, it is the failure to seek the appropriate help to manage any health concerns that raises questions about a doctor's fitness to practise [14]. Doctors have an obligation to attend to their own health as part of ensuring that they remain fit to practise. This

obligation is consistent with the 2017 World Medical Association's (WMA) Declaration of Geneva (also known as The Physician's Pledge, or the modern version of the Hippocratic Oath). Specifically, the 2017 version of the Declaration was updated with a provision about doctors attending to their own health, well-being and abilities in order to provide care of the highest standards to their patients [15, 16].

However, depending on the mental illness and its severity, there are some cases where doctors with mental illness may not realise that they need help. In those circumstances, there should be a degree of collegial responsibility in that the doctor's colleagues should raise their concerns about impairment or poor performance to prevent harm to patients. Ideally, they should first raise their concerns with the colleague in question (if this is practical). If this is not effective, they should also consider escalating this issue to the affected doctor's employer or the medical regulator (in Malaysia, the MMC). Raising a concern is not necessarily the same as lodging a formal complaint as the aim of the former is usually intended to give support, education, and advice on addressing the doctor's health concerns while the latter is concerned with administering disciplinary action. [17]

### **Malaysian Context**

As mentioned earlier, doctors in Malaysia are not immune to mental illnesses. In 2016, there was a widely reported case where a house officer, Dr Fathi Munzir Nadzri, was charged for desecrating a Hindu temple [18]. A psychiatrist testified during his trial that he was suffering from bipolar disorder. He was subsequently found not guilty of the charge on grounds of insanity as the court judged that he was in a manic phase at the time he desecrated the temple [18]. Following that, there have been reports discussed on social and local media platforms regarding mental health concerns among junior doctors in Malaysia [19, 20].

It is therefore timely that the MMC adopted and published the guideline on 'Managing Impaired Registered Medical Practitioners (RMP)' in 2010. The guideline defines an impaired RMP as "one who is unable to fulfill professional or personal responsibilities and consequently is unable to practise medicine with reasonable skill and safety to patients because of

physical or mental illness” [21]. It acknowledges that impaired RMPs are not uncommon, and a small number of practitioners will encounter such difficulties, including mental illnesses, at some point in their careers. [21]

The powers conferred on the MMC by the Medical Act 1971 and the Medical (Amendment) Act 2012 allow the council to assess impaired practitioners and determine how their registration should be best managed [22]. This involves determining the extent and severity of the impairment, whether the impairment is likely to be ongoing, what level of support is required during treatment and rehabilitation, and whether the community is put at risk if the impaired practitioner continues practising [21].

This guideline sets out the process for reporting concerns about a colleague and the legal protection extended to the reporting doctor in those instances. It states that “it is the ethical responsibility of registered medical practitioners to report impaired registered medical practitioners (and colleagues) ... whose continued performance and practise would put patients and the community at risk” [21]. A practical concern of reporting doctors would be the risk of legal proceedings by their impaired colleague if they alerted the MMC. However, these concerns are unfounded as there is legal protection under the Whistleblower Protection Act 2010 [23]. Briefly, the Act protects anyone who exposes any wrongdoing, be it a violation of laws and ethical standards, dangers to public health or safety, and mismanagement [24]. Under the Act, no civil action, criminal liability or administrative process can be taken against the person who makes a report if done so in good faith [23, 24].

The MMC guideline also describes the process for convening a Fitness to Practice Committee to ensure that proceedings are conducted fairly. It assures the RMP who is being investigated that a decision is not made solely based on his or her medical condition, but also takes into account compliance with treatment and follow-up, remission, the practitioner’s own insight, as well as the skills required for practise in that doctor’s role [21]. If there is sufficient evidence of impairment, the practitioner will be referred to a relevant specialist for treatment [21]. The RMP has a right of appeal, and

can request reinstatement to the MMC’s Register once he/she has fully recovered and is deemed fit to resume to practise [21]. This is consistent with the Medical Council of New Zealand and GMC’s approach.

With regard to new medical graduates applying for provisional registration, the completion of a Fitness to Practice Declaration Form is mandated by the MMC [25]. This form requires applicants to declare their current health condition, previous employment, and if they have any disciplinary or criminal record [25]. While this attempts to screen potential practitioners to ensure that they are fit to practise, it would be difficult to detect instances where an applicant deliberately misleads or withholds certain information such that their application is inaccurate. That said, the MMC may make enquiries and obtain relevant information before registering a new doctor. If these subsequently reveal that the applicant had not been forthcoming, the MMC can withhold or terminate the application and take other actions that it deems fit including initiating criminal proceedings [22].

### **Medical Students**

Having discussed MMC’s guidelines, we now turn our focus to medical students. Medical students do not fall under the MMC’s jurisdiction as they have yet to graduate and so are not yet qualified for registration. Can medical students who are diagnosed with mental illnesses become doctors and are they fit to practise in the future? The earlier discussion regarding Dr Fathi illustrates the risk of permitting medical students with underlying mental illnesses whose conditions are not optimized to practise.

While local guidance in this area is sparse, the GMC in collaboration with the Medical Schools Council of the UK has produced a guideline called “Supporting Medical Students with Mental Health Conditions” [26]. This guideline aims to help medical schools support their students with underlying mental illnesses. In relation to student fitness to practise, the guideline advises medical schools not to allow a student to graduate if they are not fit to practise, and that they should support them in finding an alternative career or degree course other than medicine [26]. This stand clearly portrays the GMC and the Medical Schools Council’s views that it would be unethical to permit

students with fitness to practise issues to graduate as they could go on to harm patients.

Such collaborations however do not exist in the Malaysian setting as the MMC does not have any agreement or Memorandum of Understanding with medical schools in Malaysia and abroad that allows these medical schools to disclose information about students with health concerns nearing or on completion of their medical degree. This is something the MMC should consider implementing as it would help to determine whether it would be appropriate to grant registration to an applicant with health concerns.

While some parties may hold the view that prohibiting medical students with mental issues from graduating would be the most pragmatic way to protect patients, this situation is often complicated. So, the pros and cons of allowing a particular student to graduate and practise as a doctor needs to be considered on a case-by-case basis. Taking a blanket approach may result in students being less inclined to seek help for their mental issues and lead to (further) stigmatisation if they know that doing so will jeopardise their future. Instead, promoting mental health and encouraging everyone with mental issues to seek appropriate help and treatment should be the ultimate goal.

## THE WAY FORWARD

### Seeking Help

It is evident from our discussion so far that doctors who have underlying mental illnesses have an ethical obligation to seek professional help. This is challenging as it takes more than just the individual to tackle the problem. It requires a supportive environment, less judgmental attitudes on the part of healthcare professionals, a less punitive and a more rehabilitative approach by medical regulators in order to overcome the negative stigma that is currently associated with mental illnesses. While there are groups and community support in place, efforts by both the government as well as non-governmental organisations (NGOs) to reduce the stigma of mental illnesses need to be intensified [27]. An example of this is the establishment of the Mental Illness Awareness and Support Association (MIASA) that promotes awareness on the importance of

mental health and provides support for people suffering from mental illnesses [28].

If doctors with mental illnesses are unwilling to disclose sensitive information to their colleagues for fear of judgement or stigmatisation, support is available. The Malaysian Medical Association (MMA) recently launched an initiative called *HelpDoc* which is a support group targeted towards doctors who are dealing with work pressures and personal problems [29]. In addition, NGOs such as the *Befrienders* provide a hotline that is also available 24-hours a day, 7 days a week to anyone who is in distress, lonely or having suicidal thoughts [30]. These services allow for anonymity and could be beneficial for doctors who are afraid that their medical career may be jeopardised due to their mental illnesses.

### Practising Medicine

As mentioned earlier, the decision as to whether a doctor with underlying mental illnesses can continue to practise, and whether medical students who have underlying mental illness should be allowed to graduate and subsequently practise medicine require careful consideration on a case-by-case basis. While there are no blanket answers to these deliberations and the interests of many parties need to be taken into account, the interests of three parties in particular should be considered- the doctor or medical student themselves, the patients they will be treating and society in general. While doctors or medical students who are found to be impaired have the right to privacy and freedom from discrimination, patient safety should be paramount and the trust between society and the medical profession need to be upheld.

On one hand, having taken into consideration the amount of money, effort and time that has been spent, perhaps medical students who have mental illnesses should be allowed to continue their training. On the other hand, if their condition is not optimised or if they are unfit to practise, patient safety could be compromised and patients might be harmed. With regards to those doctors with mental illnesses who are already practising, allowing them to continue practising is possibly irresponsible on the part of the medical regulator as it places patients at a risk of harm.

## Alternative Career Pathways

Having completed and graduated with a medical degree does not equate to registration, nor does it imply that one is necessarily fit to practise medicine. These are two separate matters that are usually conflated into one. Pending more concrete guidance from the relevant authorities in Malaysia on how to support and manage medical students with mental illnesses, it may be prudent to look to other regulators such as the GMC. What is important is for health concerns to be identified early so that they can be addressed [31].

Supporting medical students with mental illnesses in Malaysia to consider alternative career pathways through proper career guidance counseling will also be beneficial. There are a large number of medical students who enrol into medical schools not because they want to be a doctor or are interested in medicine, but they do so to fulfill parental expectations or peer pressure [32]. Some of these students realise in the course of their studies that they have chosen the wrong programme, but are afraid to quit because they fear what others might say. This can lead to a vicious cycle of dissatisfaction and stress (including burnout), which can bring about a sense of feeling unwell. Allowed to persist, this can lead to further problems such as not showing up for work or disengaging at work. To prevent such occurrences, medical schools can establish 'career counseling' services that are able to guide and create awareness among these students regarding alternative career pathways that still put into use the clinical knowledge gained at medical school but that do not place patients at risk.

For doctors who encounter some mental illnesses during the course of their career, it may seem to be a loss to disallow them to continue to practise as the financial implications are big. However, it is important that they do not go on to harm patients and that must be the overriding consideration. Of note, several NGOs such as *Medic Footprints* and *Other Options for Doctors* are helping these doctors to explore alternative roles that put their clinical skills and knowledge to good use [33, 34].

## CONCLUSION

Mental illness is on the rise in Malaysia and will impact a proportion of doctors. This article has used some cases to illustrate the importance of ensuring both medical students and doctors are fit to practise. Guidelines such as the MMC guideline on 'Managing Impaired Registered Medical Practitioners' and the GMC guideline on 'Supporting Medical Students with Mental Health Conditions' have been discussed. Some suggestions have also been made regarding the possibility of pursuing alternative career pathways. We have also demonstrated how the stigma associated with mental illnesses is a barrier for doctors and medical students in seeking help. So, this stigma needs to be addressed. Doing so is a societal responsibility. It is encouraging that there are several NGOs who are seeking to provide support so that those affected can be encouraged to come forward to seek appropriate help. Doctors and medical students with mental illnesses could still be allowed to practise provided patient safety is not compromised. Appropriate support will go a long way in helping doctors and medical students with mental illness so that they know that there is hope and a way through a seemingly devastating situation.

## Conflict of Interest

Authors declare none.

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