

Medical Council - Malta

Annual Report 2012



Published by

**MEDICAL COUNCIL
MALTA**

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1 Foreword by the President of the Medical Council

This report is being published in terms of the provisions of the Health Care Professions Act (Chapter 464 of The Laws of Malta), which requires the Medical Council to publish an annual activity report containing a statement of the activities carried out or pursued by the Council during the year.

The year 2012 was a very busy year for the Medical Council. In May 2012 the Medical Council hosted the FEDCAR meeting which involved a lot of coordination and work by the organizing committee. I am pleased to say that this was a success and that Dr. David Muscat, an elected dentist member on the Medical Council has been nominated as president of this prestigious organisation.

In September 2012 for the first time the Medical Council Statutory Examination (MCMSE) examinations for Non-EU dentists took place. These were held in collaboration with the Faculty of Dentistry of the University of Malta.

The Medical council has met regularly throughout the year. Apart from the meetings held, as recorded in the annual report, various members on the medical council participated on sub-committees meetings. These include, amongst others, advisory committees and committees entrusted with inquiries. The Medical Council also examined numerous documents and sent its comments to the competent authorities both on the local and on an EU level.

Mr Charles Messina, who served on the Medical Council since February 2009, resigned in August 2012, following his prestigious appointment as Commissioner for Health within the Office of the Ombudsman. I would like to thank him publically for his invaluable help during my term of office.

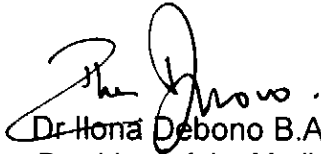
Needless to say throughout the year the Medical Council had to examine numerous complaints made against the medical and dental practitioners. Each and every complaint is examined on its own merits by the members.

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The Registrar, Ms. Svetlana Cachia, is the only full time employee and she is assisted by a part-time clerk at the offices of the medical council which have relocated [temporarily] to Saint Luke's Hospital. All other work is carried out by the members of the Medical Council and this is done in their free time.

Finally, I thank the Registrar and the Members for their dedication, commitment and dedication towards the Council which would not function unless there are individuals who are ready to assume this responsibility.



Dr. Hona Debono B.A., LL.D., Adv. Trib. Eccl. Melit.
President of the Medical Council

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2 Composition of the Medical Council:

2.2 Members of the Medical Council:

Members appointed by the Prime Minister

(From 22nd September 2011 to 21st September 2014)

Dr Ilona Debono B.A. LL.D. Adv. Trib.Eccl.Melit. as the President

Dr John Felice B.Ch.D

Dr Alex Magri M.D.

Members appointed by the Council of the University of Malta

(From 15th December 2011 to 14th October 2013)

Dr Daniel Farrugia M.D. (Malta), DEAA, EDIC

Members elected by the Registered Medical Practitioners

(From 29th March 2010 to 28th March 2013)

Dr Michael J. Boffa, M.D., M.R.C.P.(UK), F.R.C.P.(Lond), C.C.S.T.(Derm)(UK),
M.Sc.(Derm)(Lond), D.Derm.(Lond), D.G.U.M. (Lond)

Dr Doreen Cassar M.D., Dip W.H.(ICGP), Dip PC & GP(Ulster), M.M.C.F.D

Mr John Cauchi, B Sc., M.D., F.R.C.S. (Ed), F.R.C.S (Paed Surg)

Dr Bryan Flores Martin, M.D., M.M.C.F.D, Cert. Diab (ICGP)

Dr Paul Soler, M.D., M.R.C.P.(UK), M.R.C.P.C.H.

Members elected by the Registered Dental Surgeons

(From 16th April 2010 to 15th April 2013)

Dr Herbert Messina Ferrante, M.O.M., B.Ch.D., L.D.S.R.C.S.(Eng), F.I.C.D.(USA)

Dr David Muscat, B.D.S.(Lond)

Members representing the Public – appointed by the Prime Minister

(From 22nd September 2011 to 21st September 2014)

Ms Gabriella Abela M.A., MSc.

Mr Charles Messina¹

Registrar

Ms Svetlana Cachia B.Com.(Hons.)(Melit.), M.A.(Public Policy)(Melit.)

¹ Mr Charles Messina was appointed as Commissioner for Health in the Office of the Ombudsman on 1st August 2012. New member still to be appointed by the Prime Minister.

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3 Legal Functions of the Medical Council

The Medical Council is the regulatory body over Medical Practitioners and Dental Surgeons practicing in Malta and Gozo. Its mandate is to promote, protect and maintain the health and safety of the public by ensuring proper standards in the practice of medicine. The Council's statutory functions are defined in the HCPA 2003, Cap. 464, which abides by the EU Directive 2005/36, as:

- Administering the systems for the registration and recommends to the President of Malta the granting of Licences to Medical Practitioners and Dental Surgeons to practice their profession. Patients' safety is central in our policy when assessing applications by Medical Practitioners and Dental Surgeons for registration;
- To keep, update and publish the Medical Council Register² in respect of the Medical and Dental professions, and also the Specialist Registers of the Medical and Dental professions;
- To enhance the role of the Medical Register as the single authoritative source of information on Medical and Dental Practitioners, and as a national resource for patients, employers and the professions;
- To prescribe and maintain professional and ethical standards for the Medical and Dental professions. The Council aims at offering continuous support and assistance to professionals in ethically performing their role in society;
- To levy such fees, from its registered Medical/Dental Practitioners, for initial registration and yearly retention fees thereafter; as stipulated in the Legal Notice 330/2006

² The Medical Practitioners: Principal Register; the Medical Practitioners: Temporary Register; the Medical Practitioners: Provisional Register; the Dental Surgeons Register and the Medical and Dental Specialist Register. The Medical Council also holds a list of Medical Practitioner and Dental Surgeons from EU Members States that practice in Malta on a Temporary Service basis. These are accessed from our website:

https://ehealth.gov.mt/HealthPortal/others/regulatory_councils/medical_council/medicalcouncilregisters.aspx

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The Medical Council strives at safeguarding the highest standards of Medical/Dental ethics, education and practice, in the interest of patients, the general public and the Medical and Dental professions.

3.1 Principal Tasks for year 2012:

- Finalising pending inquiries from previous years, tackling new inquiries and ensuring to abide by the parameters set within the HCPA 2003, Cap. 464, and Legal Notice 38/2009.
- Constantly developing and improving the Medical Council database, storing data on all registered Medical/Dental Practitioners, so as to ensure data protection and maintenance.
- Providing a real-time updated list of the registered Medical/Dental Practitioners, who are authorised to practise in Malta, in line with the 'myHealth' initiative.
- Restructuring the format of the Medical and Dental Specialist Register in order to feature the 'Date of Completion of Training', that is, the date on which one has completed the training in line with the provisions of the EU Directive 36/2005/EC; and the 'Date of Registration with the Medical Council', which refers to the date on which an applicant applied with the Medical Council to be included in the Specialist Register.
- Collecting payment of the first time registration fees and the annual retention fees due by Medical / Dental Practitioners according to Legal Notice 330/2006.
- Consistently providing effective and efficient professional regulation so as to ensure and maintain the importance of the Medical Council and its role in society.
- Providing assistance and guidance to national and international parties requesting statistical information and other data.
- Conducting the Medical Council Malta Statutory Examination (MCMSE) for non-EU Medical and Dental applicants or foreign nationals with non-EU Degrees, as required by Maltese and EU prevailing legislation.

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3.2 Elections held in 2012:

During year 2012, no elections were held.

3.2.1 Appointment of the Election Commissioners for year 2012

In accordance with the HCPA 2003, Cap. 464, Subsidiary Legislation, 'Medical Council (Elections) Regulations', Legal Notice 35 of 2004, Article 3, during Council Meeting No 01/2012, held on 4th January 2012, Dr George Depasquale, M.D., Dr Joseph Farrugia, M.D., and Dr Roy Schembri Wismayer, M.D., D.C.P.(Lond.), Dip.Bact.(Lond.), M.C.A.P.(Aff.), were appointed as the Medical Council Election Commissioners for a period of one year.

3.3 Challenges faced by the Medical Council

The Medical Council enjoys an important role in the health care sector. Its activities affect various stakeholders, and thus policies adopted and actions exercised require a dedicated, responsible, efficient and effective management.

Issues and commitments of the Council within the Maltese and the European societies are on a constant increase, both in terms of capacity and influence. The Medical Council seeks to perform its role and functions with great limitations, which makes the principal aim of performing duties and delivering much more demanding.

- **Lack of Human Resources:**

The Medical Council still lacks appropriate human resourcing in order to be able to meet its goals. Both the Registrar and Ms K. Buhagiar³ are employed on full-time basis with the Council. However, considering the workload of the Council, and the human resources needed to fulfil all the requirements imposed by European Union objectives and the mobility of professionals across borders, a proactive re-organisation of human resources is needed. At the very least another clerk is needed. At the moment Council Members are trying hard to voluntarily take on work that should be the remit of permanent staff. This renders Council work laborious, not timely on occasions and lacking in continuity due to different members taking on tasks on rotation.

³ Ms K. Buhagiar was replaced by Mr Emanuel-John Falzon from December 2012.

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- **Lack of Adequate Offices:**

Since February 2012, the Council was relocated to a small office in St. Luke's Hospital, Outpatients' Department, Level 1, St. Luke's Square Gwardamangia, after the Valletta premises were deemed to be structurally dangerous. However, due to the limited space available, the bulk of the Council's documents and files are still in Valletta. This situation is hindering the Registrar and her assistant from immediately accessing the needed documents when the need arises, apart from the fact that the staff is at great risk when entering in this structurally dangerous building. Even though the Council is now situated in a safer environment, it still lacks an appropriate office with adequate storage, privacy, space and other facilities. The Medical Council is still waiting for adequate premises.

- **Financial Resources:**

The Medical Council's funds are deposited in a below-the-line account at The Treasury. These funds are controlled by the Directorate of Public Health Regulations and thus money cannot be utilised without their approval, even for minimal expenses. This hinders the Council's financial flexibility which in turn limits the Council's autonomy.

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4 Meetings and Attendances

The Medical Council held 24 Meetings from 1st January 2012 and 31st December 2012:

	Present	Excused	Absent
Dr Ilona Debono	23	1	-
Dr John Felice	16	6	2
Dr Alex Magri	19	5	-
Dr Daniel Farrugia	21	3	-
Dr Michael J. Boffa	19	5	-
Dr Doreen Cassar	19	5	-
Mr John Cauchi	12	5	7
Dr Bryan Flores Martin	23	1	-
Dr Paul Soler	13	8	3
Dr Herbert Messina Ferrante	10	14	-
Dr David Muscat	21	3	-
Ms Gabriella Abela	21	3	-
Mr Charles Messina ⁴	14	-	-

⁴ Mr Charles Messina was appointed as Commissioner for Health in the Office of the Ombudsman on 1st August 2012. The new member is still to be appointed by the Prime Minister.

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5 Sub-Committees of the Medical Council and Representatives of the Medical Council on other Committees

The Sub-Committees of the Medical Council are entrusted to work on behalf of the Council. All sub-committees act under powers delegated to them by the Medical Council.

- **Sub-Committee for the Hearing of Inquiries**

This sub-committee was composed of the President of the Medical Council, Dr. Ilona Debono (President) as chairperson; Dr Paul Soler and Dr John Cauchi (as Medical Practitioners members); Dr John Felice and Dr Herbert Messina Ferrante (as Dental Surgeons members); and Ms Gabriella Abela and Mr Charles Messina (as members representing the Public)

- **Sub-Committee for Registration of the Medical Practitioners**

This sub-committee is responsible for the task of vetting all new applications of Medical Professionals for registration with the Medical Council, and for the approval of qualification certificates submitted for recognition. This committee was composed of Dr Doreen Cassar, Dr Bryan Flores Martin and Dr Alex Magri.

- **Sub-Committee for Registration of the Dental Surgeons**

This committee is responsible for vetting all new applications of Dental Surgeons for registration with the Medical Council, and for the approval of qualification certificates submitted for recognition. This committee was composed of Dr John Felice, Dr David Muscat and Dr Herbert Messina Ferrante.

- **Sub-Committee for the Foundation School Programme**

The Malta Foundation School Programme is quality assured by the Medical Council Malta. The Medical Council appointed Dr Doreen Cassar and Dr Bryan Flores Martin to form the Quality Assurance Team of the Malta Foundation Programme. It was unanimously agreed that this team has an appointment of three (3) academic years to ensure continuity. This was decided during Council Meeting No. 49/2009, held on Wednesday 1st July 2009.

- **Sub-Committee for the Medical and Dental Examinations**

In accordance with the EU Directive 2005/36/EC, the HCPA 2003, Cap 464, and the Medical Council's standard policy, all non-EU applicants/applicants in the possession of a non-EU first

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medical or dental degree, are requested to sit and successfully pass the Medical Council Malta Statutory Examination (MCMSE), in order to be granted Full-Permanent registration in Malta. The MCMSE for Medical Practitioners and Dental Surgeons are to be conducted twice a year by law. The Council identifies the need to develop standard procedures and guidelines on these examinations. Thus a sub-committee formed by Dr John Felice, Dr David Muscat and Dr Herbert Messina Ferrante (Examination for Dental Surgeons), Dr Doreen Cassar and Dr Alex Magri (Examination for Medical Practitioners) was set up in order to design an improved structure for the Medical Practitioners and Dental Surgeons Examinations.

- **Sub-Committee on Advertising and Financial Conduct by Medical/Dental Practitioners**

The Medical Council identifies the need to review its position on advertising and financial conduct by Medical and Dental Practitioners in the light of the changing professional environment in Malta and also on the international level. Thus, a sub-committee formed by Dr John Felice and Mr John Cauchi was set up to draw up a report on the present guidelines and report back to the Council.

- **Sub-Committee Meeting on Official Documentation**

The Medical Council set up a number of ad-hoc sub-committees which were entrusted to critically analyse and evaluate official documentation, such as Bills of Parliament and Draft National Papers, in order to prepare reports on the position of the Medical Council in these capacities. For more information, please refer to Section '11.3 Bill 118: Embryo Protection Act, 2012' on pages 50-51 below.

- **Representative on the Specialist Accreditation Committee (SAC)**

Dr John Cauchi and Dr Michael Boffa (substitute) represent the Medical Council on the Medical SAC.

Dr Herbert Messina Ferrante and Dr John Felice (substitute) represent the Medical Council on the Dental SAC.

- **Representative on the Post Graduate Training Advisory Committee**

Dr Michael J. Boffa represents the Medical Council on the Post Graduate Training Advisory Committee.

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6 Participation in Conferences Abroad

- **Sixth Meeting, European Network of Medical Competent Authorities (ENMCA),
23 January 2012, Rome**

Dr Bryan Flores Martin represented the Medical Council during this meeting.

Annex 1: report presented to the Council by Dr B. Flores Martin

- **Seventh Meeting, European Network of Medical Competent Authorities (ENMCA),
13 April 2012, London**

Dr Doreen Cassar represented the Medical Council during this meeting.

Annex 2: report presented to the Council by Dr D. Cassar

- **Eight Meeting, European Network of Medical Competent Authorities (ENMCA),
14 September 2012, Larnaka, Cyprus**

Dr Doreen Cassar represented the Medical Council during this meeting.

Annex 3: Summary of 8th ENMCA Meeting

Annex 4: ENMCA views on the European Parliament reports on the proposal amending the recognition of professional qualifications Directive (2005/36/EC)

- **FEDCAR General Assembly, 29 – 30 May 2012, Paris**

Dr David Muscat represented the Medical Council during this meeting.

Annex 5: report presented to the Council by Dr D. Muscat

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7 Examinations for Non-EU Doctors / Dentists for registration in Malta

The EU Directive 2005/36/EC stipulates that the Medical Council has to organise, to a minimum of twice a year, the Statutory Examination for non-EU Medical and Dental applicants or foreign nationals with non-EU Degrees applying for registration in Malta.

7.1 Medical Practitioners Examination⁵

The Medical Council Malta Statutory Examination (MCMSE) for Medical Practitioners was held twice during year 2012, as stipulated by the above-mentioned directive.

During Council Meeting No. 03/2012, held on Wednesday 1st February 2012, the Medical Council appointed Mr Charles Messina to act as the Examination Coordinator for the MCMSE during year 2012. On Wednesday 1st August 2012, Mr Charles Messina was appointed as Commissioner for Health in the Office of the Ombudsman, and thus he resigned from the Medical Council. Ms Gabriella Abela was appointed to act as Examination Coordinator, during Council Meeting No 15/2012, held on 8th August 2012.

7.1.1 MCMSE for Medical Practitioners April 2012

Six (6) applicants replied by the date stipulated, however, only one (1) candidate was able to sit for the examination (table 2). As per LN330/2006 the applicant paid the examination fee of €1170.

The MCMSE was held on Wednesday 4th April 2012, at the Medical School, Mater Dei Hospital. The examination was conducted in the form of an interview (Viva Voce) in English. The candidate was examined in the following subjects with two examiners during each session.

⁵ Full Report may be downloaded from:
https://ehealth.gov.mt/HealthPortal/others/regulatory_councils/medical_council/annualreport.aspx

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The Groupings were as follows:

Medicine/Public Health

Family Medicine/Obstetrics and Gynaecology

Paediatrics/ Psychiatry

Surgery/Pathology

All subjects were failing, that is, one had to obtain a pass-mark of fifty (50) in all the subjects.

Table 1: Results of the MCMSE dated 4th April 2012

DATE	NUMBER OF APPLICANTS	RESULTS	
		PASS	FAIL
04.04.2012	1 candidate sat for examination	1	-

7.1.2 MCMSE for Medical Practitioners September 2012

Both Mr Charles Messina and Ms Gabriella Abela were present for the MCMSE held on Wednesday 5th September, held at the Medical School, Mater Dei Hospital, at 8.30am. Mr C Messina attended to give handover to Ms G Abela.

Eight (8) applicants confirmed their attendance, and four (4) candidates paid the examination fee by the date stipulated. However, only two (2) candidates were able to sit for the MCMSE. The other two (2) candidates will sit for the examination in future.

The examination was conducted in the form of an interview (Viva Voce) in English. The candidates were examined in the following subjects with two examiners during each session.

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The Groupings were as follows:

Medicine/ Paediatrics

Family Medicine/Public Health/

Obstetrics and Gynaecology/Psychiatry

Surgery/Pathology

All subjects were failing, that is, a pass-mark of fifty (50) had to be obtained in all the subjects.

Table 2: Results of the MCMSE dated 5th September 2012

DATE	NUMBER OF APPLICANTS	RESULTS	
		PASS	FAIL
05.09.2012	2 candidates sat for examination	1	1

7.2 Dental Surgeons Examination

7.2.1 MCMSE for Dental Surgeons September 2012

Since year 2006, the Medical Council has had several requests from foreign non-EU Dental Surgeons willing to sit for the MCMSE for Dental Surgeons. However, due to several problems, the Medical Council could not accede to these requests.

In year 2009, Dr John Felice B.Ch.D. (Malta), Dr Herbert Messina Ferrante M.O.M., B.Ch.D.(Malta), L.D.S.R.C.S.(Eng), F.I.C.D.(USA) and Dr. David Muscat B.D.S.(Lond) were appointed as the Medical Council's Sub-committee for the setting up the MCMSE for Dental Surgeons. Between 2009 and 2012, the sub-committee held a number of meetings with the bodies involved in this issue. After an extensive exercise, the MCMSE for Dental Surgeons was finalised in mid-year 2012. An Agreement was reached with the Faculty of Dental Surgery, University of Malta, in order to conduct the MCMSE for Dental Surgeons for Non-EU dentists on its behalf, during the exit examinations for 5th year Dental students in June and during the resit exams in September.

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As stipulated by the EU Directive 2005/36/EC, Dr David Muscat, Dr John Felice and Dr Daniel Farrugia M.D. (Malta), DEAA, EDIC were appointed as the Medical Council Examination Observers and Quality Assurer on 8th August 2012.

Out of the 23 prospective candidates informed, only one candidate confirmed attendance and paid the examination fee of €1170 by the date stipulated.

The candidate was provided with the procedures and the examination syllabus. The MCMSE for Dental Surgeons were held between Monday 3rd September and Tuesday 11th September 2012.

Table 3: Results of the MCMSE dated 3rd – 11th September 2012

DATE	NUMBER OF APPLICANTS	RESULTS	
		PASS	FAIL
Sept 2012	1 candidate sat for examination	-	1

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8 Registrations in 2012

In year 2012 the Medical Council registered⁶:

Register	Gender		Total
	Female	Male	
Medical Practitioners: Principal Register	51	45	96
Medical Practitioners: Temporary Register ⁷	12	27	39
Medical Practitioners: Provisional Register	24	50	74
Dental Surgeons: Principal Register	4	6	10
Dental Surgeons: Temporary Register	4	3	7⁸
Grand Total			226

⁶ Statistics retrieved from the from the Medical Council Registers database

⁷ Temporary Registration is granted for a period of one year, renewable annually, on the condition that such practice is carried out only under supervision in a Government hospital/clinic or any other branch of the health service provided by the Government. Temporary Registration is not equivalent to Full Registration in terms of the HCPA 2003, Cap. 464, and the EU Directive 2005/06/EC.

⁸ Five Dental Practitioners, who graduated in Malta, held Temporary Registration from July till December 2012 (6 months). The Practitioners were then granted Full Registration in December 2012.

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Total Number of registered Medical Practitioners and Dental Surgeons as at 31st December 2012:⁹

Register	Gender		Total
	Female	Male	
Medical Practitioners: Principal Register	516	1055	1571
Medical Practitioners: Temporary Register ¹⁰	12	27	39
Medical Practitioners: Provisional Register	124	122	246
Dental Surgeons: Principal Register	75	141	216
Dental Surgeons: Temporary Register	-	2	2
Grand Total			2074

⁹ Data retrieved from the Medical Council Registers database.

¹⁰ Temporary Registration is granted for a period of one year, renewable annually, on the condition that such practice is carried out only under supervision in a Government hospital/clinic or any other branch of the health service provided by the Government. Temporary Registration is not equivalent to Full Registration in terms of the HCPA 2003, Cap. 464 and the EU Directive 2005/06/EC.

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8.1 Provision of Temporary Service Lists

In year 2012 the following Medical Practitioner and Dental Surgeons were included in the Medical Provision of Temporary Service List¹¹:

List	Gender		Total
	Female	Male	
Medical Council Temporary Service List - Medical Practitioners	8	17	25
Medical Council Temporary Service List – Dental Surgeons	-	-	-
Grand Total			25

Total Number of Medical Practitioners and Dental Surgeons in included in the Provision of Temporary Service Lists as at 31st December 2012:

List	Gender		Total
	Female	Male	
Medical Council Temporary Service List - Medical Practitioners	19	75	94
Medical Council Temporary Service List – Dental Surgeons	-	2-	2
Grand Total			96

¹¹ As stipulated in the EU Directive 2005/36 EC, Article 9, Medical Practitioners and Dental Surgeons from other EU Countries are requested to register, providing the relevant documentation, for the Provision of Temporary Service with the Malta Medical Council. The Provision of Temporary Service List may be accessed from:

https://ehealth.gov.mt/HealthPortal/others/regulatory_councils/medical_council/medicalcouncilregisters.aspx

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9 Publications in 2012¹²

9.1 Circulars:

- Circular 01/2012: Standard Operating Procedures (replacing Circular 08/2010)

9.2 Others Publications:

- The Ethics and Regulations of the Medical and Dental Professions, April 2012

¹² Publications may be accessed from the Medical Council website, under the section 'Law & Circulars':
https://ehealth.gov.mt/HealthPortal/others/regulatory_councils/medical_council/lawsandcirculars.aspx

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10 Complaints, Inquires, Criminal Proceedings and Court Cases

Independently of any measure taken by other entities with respect to Medical / Dental Practitioners, the Medical Council is bound by the provisions of the HCPA 2003, Cap. 464, Article 32(1)(b) to initiate any Inquiry it deems necessary.

Complaints are sent to the involved medical practitioner who is given a time-limit to present his position to the Council in writing. After this process the complaints are discussed during Council Meetings and a decision is taken on whether to institute an Inquiry or not. Once a decision to hold an inquiry is taken, the Council decides whether the Inquiry will be heard by the relative sub-committee or in its plenary session. The sub-committee entrusted with the task of hearing the evidence of the case, reports periodically to the Council. Decisions are taken during a Council meeting and all Council Members are eligible to vote. During Inquiries, the President of the Medical Council has both an original and a casting vote. The final decision is communicated to the parties concerned during a public Council Meeting.¹³

10.1 Complaints

10.1.1 Complaints pending from year 2011:

- **MC/66/2009**

At the end year 2009, it was brought to the attention of the Medical Council that a Medical Practitioner was claiming the title 'Obstetrics & Gynaecology Ultrasound Specialist' in a local private hospital information booklet. The Medical Council requested the doctor to clarify his/her on this matter.

After having discussed this case, the Council decided that this case merited an Inquiry.

Case status: Inquiry

- **MC/42/2011**

The Medical Council received a letter of complaint, from a Resident Specialist at Mater Dei Hospital, against a Consultant, and the Hospital Medical Administrator. The consultant

¹³ HCPA 2003, Cap 464, First Schedule, Article 6

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complained that false information was given to other staff at Mater Dei Hospital in a way which brought his/her reputation to shame, accusing him/her of being incompetent in his/her work and a danger to patients.

After having discussed this case, the Council concluded that this did not merit further investigation.

Case status: Closed.

- **MC/58/2011**

The Medical Council received two letters of complaint against a Medical Practitioner for alleged breach of ethics and professional misconduct. Two certificates issued by the Medical Practitioner on the complainant's child, had been presented in Court by the other parent during procedures for the legal custody of the said child. These were brought to the attention of the Council. The Medical Practitioner submitted his/her clarification on this case.

After having discussed this case, the Council found that this case did not merit further investigation.

Case status: Closed

- **MC/63/2011**

An advert on a local parish publication was brought to the attention of the Medical Council for alleged breach of the Medical Council's Code of Ethics (L.N./303/2008) and the Code of Ethics on Advertising and Financial Conduct by Medical/Dental Practitioners. The Medical Practitioner was asked to clarify his/her position.

This case is being preliminarily discussed and investigated.

Case status: Pending

- **MC/85/2011**

The Medical Council received a letter of complaint from the Health Department, regarding an irregularly filed request for the issue of a Control Card for Narcotic & Psychotropic Drugs, by a Medical Practitioner (refer to MC/82/2011). The Medical Council asked the Practitioner for clarification on this case. The latter admitted his/her oversight and apologised. The Council decided that this case deserved no further investigations and warned the Practitioner that such action must not be repeated in future. This case was considered closed.

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In this case, MC/85/2011, the Medical Council received a letter of complaint from the above-mentioned Medical Practitioner against the senior Medical Officer on duty on the same day of the incident, in respect of the disciplinary proceedings which had been initiated against him/her and approved by the Department of Health.

After conducting its preliminary discussions and evaluation of this case, the Council informed the complainant that the Council upholds the principle of the autonomy of every Medical Practitioner and that the Public Health Service administrative and disciplinary procedures are beyond the remit of the Medical Council. Thus, it was advised to forward the case to the appropriate body. He/she was also informed that the Council will only be able to proceed with the case upon the receipt of a formal complaint as per the HCPA 2003, Cap. 464, S.L.458.08, 'Medical Council (Erasure of Names Procedure) Rules', Article 4.

Case status: Pending

- **MC/88/2011**

The Medical Council received a letter of complaint against a Medical Practitioner for professional misbehaviour and breach of ethics. The Practitioner was asked to clarify his/her position on this case.

After having preliminarily discussed and evaluated this case, the Council decided that this case merited an Inquiry. (Refer to page 34 below)

Case status: Pending

- **MC/92/2011**

An article concerning a Medical Practitioner published on a local magazine was brought to the attention of the Medical Council for alleged breach of the Medical Council's Code of Ethics (L.N./303/2008) and the Code of Ethics on Advertising and Financial Conduct by Medical/Dental Practitioners. The Medical Practitioner was asked to clarify his/her position.

This case is being preliminarily discussed and investigated.

Case status: Pending

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10.1.2 Complaints received during year 2012:

- **MC/03/2012**

It was brought to the attention of the Medical Council that 'a qualified staff nurse' at Sir Paul Boffa Hospital was being requested to fill prescription forms for the endorsement of doctors and consultants.

The Medical Council discussed this case, however, the Council was not in a position to take further action in the absence of a formal letter of complaint.

Case status: Closed

- **MC/04/2012**

This case is related to MC/85/2011, on previous pages 24-25 above.

The Medical Council received a letter of complaint from a Medical Practitioner against the locum administrative officer with respect to departmental disciplinary proceedings which were initiated against him/her by the locum administrative officer and approved by the Director General, at that time.

After having investigated and discussed this case, the Council found that this did not merit further investigation.

Case status: Closed

- **MC/13/2012**

The Superintendent Public Health brought to the attention of the Council that the Minister, MHEC, received a complaint about alleged irregularities in the processing of the application for specialist recognition of a Dental Surgeon registered in Malta.

The Medical Council was asked to postpone the inclusion of the Dental Surgeon in the specialist register for oral surgery until the said allegations are investigated. The Council is presently in its preliminary investigation on this case. Legal advice was sought.

Case Status: Pending

- **MC/38/2012**

The Medical Council received a letter of complaint from a Medical Practitioner against Transport Malta and its procedures in respect of driving licence testing. It was alleged that Transport

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Malta employees were conducting applicants' eye sight tests even after receiving a doctor certificate.

The Medical Council is presently conducting its preliminary investigation and liaising with both the complainant and Transport Malta.

Case Status: Pending

- **MC/39/2012**

The Medical Council received a letter of complaint against a Medical Practitioner regarding the outcome of the cosmetic procedures carried out in a local hospital. The complainant outlined that the Practitioner was not included in the Specialist Register of the Medical Council, though the hospital listed him/her as an aesthetic physician. The Practitioner was asked to clarify his/her position on this case.

After having primarily discussed this case, the Council decided that this case merited an Inquiry.

(Refer to page 34 below)

Case status: Pending

- **MC/40/2012**

The Council received a letter of complaint against a Dental Surgeon for alleged unethical and unprofessional behaviour, the outcome of the work performed, and significant lower gold content in alloy composition than was agreed upon prior to the sitting. The Practitioner was asked to clarify his/her position on this case.

After having preliminarily discussed and evaluated this case, the Council decided that this case merited an Inquiry. (Refer to page 35 below)

Case status: Pending

- **MC/41/2012**

The Council received a letter of complaint against a Dental Surgeon for alleged unethical and unprofessional behaviour, the outcome of the work performed, and significant lower gold content in alloy composition than was agreed upon prior to the sitting. The Practitioner was asked to clarify his/her position on this case.

After having preliminarily discussed and evaluated this case, the Council decided that this case merited an Inquiry. (Refer to page 35 below)

Case status: Pending

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- **MC/42/2012**

The Medical Council received a letter of complaint against a gynaecologist for alleged unethical and unprofessional behaviour towards the patient. The President of the Council and a Member registered a conflict of interest on this case in the first instance. The Council decided to appoint a retired judge to chair this inquiry.

The Practitioner was asked to clarify his/her position on this case.

After having preliminarily discussed and evaluated this case, the Council decided that this case merited an Inquiry. (Refer to page 35 below)

Case status: Inquiry

- **MC/43/2012**

The Medical Council received a letter of complaint against a Dental Surgeon for allegedly unethical and unprofessional behaviour. The Practitioner was asked to clarify his/her position on this case.

After having preliminarily discussed and evaluated this case, the Council decided that this case merited an Inquiry. (Refer to page 35 below)

Case status: Pending

- **MC/89/2012**

The Medical Council received a letter of complaint against a Medical Practitioner for alleged unethical and unprofessional behaviour. The Practitioner was asked to clarify his/her position on this case.

Case status: Pending

- **MC/92/2012**

The Medical Council received a letter of complaint against a Medical Practitioner for alleged unethical and unprofessional behaviour. The Practitioner was asked to clarify his/her position on this case.

Case status: Pending

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- **MC/95/2012**

The Medical Council received a letter of complaint against a Medical Practitioner for alleged unethical and unprofessional behaviour. The letter-head allegedly used by the Practitioner was also brought to the attention of the Council in line with the HCPA 2003, Cap. 464, Article 29, 'Specialists'.

The Practitioner was asked to clarify his/her position on this case.

Case status: Pending

- **MC/96/2012**

Comments made by a Medical Practitioner over the media were brought to the attention of the Medical Council for alleged unethical and unprofessional behaviour.

After discussing this case, the Medical Council decided that it merited no further investigation.

Case status: Closed

- **MC/97/2012**

An article on a Medical Practitioner published on a local newspaper was brought to the attention of the Medical Council for alleged breach of the Medical Council's Code of Ethics (L.N./303/2008) and the Code of Ethics on Advertising and Financial Conduct by Medical/Dental Practitioners. The Medical Practitioner was asked to clarify his/her position.

After discussing this case, the Medical Council decided that it merited no further investigation.

Case status: Closed

- **MC/98/2012**

An advert by a Dental Surgeon published on a local magazine was brought to the attention of the Medical Council for alleged breach of the Medical Council's Code of Ethics (L.N./303/2008) and the Code of Ethics on Advertising and Financial Conduct by Medical/Dental Practitioners.

The Medical Practitioner was asked to clarify his/her position.

This case is being preliminarily discussed and investigated.

Case status: Pending

- **MC/99/2012**

An advert by a Medical Practitioner published on a local magazine was brought to the attention of the Medical Council for alleged breach of the Medical Council's Code of Ethics

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(L.N./303/2008) and the Code of Ethics on Advertising and Financial Conduct by Medical/Dental Practitioners. The Medical Practitioner was asked to clarify his/her position.

This case is being preliminarily discussed and investigated.

Case status: Pending

- **MC/100/2012**

An advert by a Medical Practitioner published on a local magazine was brought to the attention of the Medical Council for alleged breach of the Medical Council's Code of Ethics (L.N./303/2008) and the Code of Ethics on Advertising and Financial Conduct by Medical/Dental Practitioners. The Medical Practitioner was asked to clarify his/her position.

This case is being preliminarily discussed and investigated.

Case status: Pending

- **MC/101/2012**

An advert by a Dental Surgeon published on a local newspaper was brought to the attention of the Medical Council for alleged breach of the Medical Council's Code of Ethics (L.N./303/2008) and the Code of Ethics on Advertising and Financial Conduct by Medical/Dental Practitioners. The Medical Practitioner was asked to clarify his/her position.

This case is being preliminarily discussed and investigated.

Case status: Pending

- **MC/102/2012**

The photo of a Dental Practitioner on a poster attached to a carnival float during the year 2012's carnival parade was brought to the attention of the Medical Council for alleged breach of the Medical Council's Code of Ethics (L.N./303/2008) and the Code of Ethics on Advertising and Financial Conduct by Medical/Dental Practitioners. The Medical Practitioner was asked to clarify his/her position.

This case is being preliminarily discussed and investigated.

Case status: Pending

- **MC/103/2012**

An advert by a Medical Practitioner published on a local magazine was brought to the attention of the Medical Council for alleged breach of the Medical Council's Code of Ethics

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(L.N./303/2008) and the Code of Ethics on Advertising and Financial Conduct by Medical/Dental Practitioners. The Medical Practitioner was asked to clarify his/her position.

This case is being preliminarily discussed and investigated.

Case status: Pending

- **MC/104/2012**

It was brought to the attention of the Medical Council that there were allegations that Maltese citizens were being offered a consultation with a foreign Medical Practitioner who was not registered in Malta and that appointments were being made for operations abroad. The Medical Council was asked to take appropriate action.

It is a criminal offence to work as a Medical or as a Dental Practitioner in the Republic of Malta, without holding registration with the Medical Council. However the Council has jurisdiction only over the Medical and Dental Practitioners who are registered with it, and thus, all other cases are referred to the Police for investigation for breach of the Law. The case was thus immediately referred to the Commissioner of Police for further investigation and action.

Case status: Closed – referred to the Commissioner of Police

- **MC/114/2012**

The Medical Council was referred to past correspondence which brought to its attention the fact that there were allegations that Dental Surgeons were forwarding work which fell under the remit of a Dental Technologist, to individuals who were not registered in the respective Register. The Medical Council was forwarded with a number of reference letters issued by Maltese Dental Surgeons for these individuals, for any action deemed necessary. The Dental Surgeons were thus asked to clarify their position on this matter in the first instance.

Case status: Pending.

- **MC/132/2012**

A number of Medical and Dental Practitioners failed to pay the Annual Retention Fee dues (in line with LN/330/2006), even though a final notice was sent to regularise their positions.

The Council aims to initiate Inquiry procedures against the said Practitioners, by the powers conferred on it by the HCPA 2003, Cap. 464, by mid-year 2013.

Case status: Pending

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10.2 Inquiries

10.2.1 Inquiries Decisions Delivered

The Council delivered the following decisions on the cases pending from the last report:

- **MC/27/2009 (MC/78/2008 – Case considered closed)**

In 2009, the complainant family, as per case MC/78/2008, forwarded to the Medical Council new facts against Dr Louis Charles Buhagiar (MC 1289). After evaluating these facts, the Medical Council decided that this case merits an inquiry for alleged unethical and unprofessional behaviour. The sub-committee was appointed. The Medical Council proceeded with the Inquiry during years 2009, 2010, and 2011. The last sitting was held on 22nd March 2011.

The decision on the Medical Council was delivered on 27th June 2012. The complainants were present. Dr L. C. Buhagiar did not attend and thus he was sent a true copy of the decision by registered mail.

Decision by the Medical Council: The Medical Council found Dr L.C. Buhagiar guilty of professional misconduct. Dr L. C. Buhagiar would be suspended from the register for a period of one (1) month and fined the sum of five thousand Euros (€ 5000). The suspension would come into effect after five (5) months from the delivery of the said decision. The Council was also to publish its decision by a press release depending on the decision by the Court.

On 26th September 2012 Dr L. Buhagiar filed in a judicial letter in the Civil Courts of Malta. This was received by the Medical Council on 2nd October 2012. Dr I. Spiteri Bailey, legal adviser to the Council, submitted the Council's reply in Courts of Malta on 5th October 2012. Dr. L. C. Buhagiar is presently contesting the Medical Council's decision in the Civil Courts of Malta, Case No. 1043/12JRM. (Refer to page 44 below)

Current Status of the case: Inquiry closed; decision contested in Court.

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10.2.2 Pending Inquires from previous years

- **MC/D/290(a)**

The Medical Council is still investigating a Medical Practitioner of having allegedly supported a false application, submitted by another Medical Practitioner, to sit for a post-graduate examination abroad.

Case status: Pending

- **MC/D/295/2006**

The Medical Council is presently holding an inquiry on a Medical Practitioner who claimed to be a specialist without holding any specialisation certificate.

Case status: Pending

- **MC/43/2007**

A court case on a Medical Practitioner was brought to the attention of the Medical Council. The Medical Council sought to ask the complainant for updates on this case, and whether this had been decided, or whether this was still pending. Since no feedback was received this case is considered closed.

Case status: Closed

- **MC/124/2008**

The Italian Health Department informed the Medical Council that five dentists had submitted false qualifications with the logo of the University of Malta. The Medical Council informed the Commissioner of Police and the Dean of the Faculty for Dentistry at the University of Malta of this case. The case was being investigated by the Italian Fraud Police Section.

The Malta Police Force informed the Medical Council that after having investigated this case, it was concluded that they had no jurisdiction over this case since there was no indication that the forged documents had ever been used in Malta. The Police Force had thus referred the case to their overseas colleagues in Italy for assistance and further information.

This case was referred to the Milan Prosecutors' Office to be assessed for possible prosecution.

Case status: Closed

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- **MC/39/2010**

The Medical Council received a complaint against a Medical Practitioner for alleged unethical and unprofessional behaviour. Having conducted preliminary investigations, it was decided that this case merited an Inquiry. The Medical Council proceeded with the Inquiry during years 2010, 2011 and 2012. The last sitting was held on 20th March 2012.

The sub-committee aims to finalise the report on this case in January 2013, and the Council would deliver its decision by the first quarter of year 2013.

Case status: decision to be delivered.

10.2.3 Inquires started in 2012

- **MC/66/2009**

Refer to 'Complaints pending from year 2011' on page 25 above.

The Medical Council aims to initiate proceedings during the first quarter of year 2013.

Case status: Pending

- **MC/88/2011**

Refer to 'Complaints pending from year 2011', on page 25 above.

During Council Meeting No. 20/2012, held on 17th October 2012, the Medical Council decided that this case merited an Inquiry and that this was to be heard in front of the whole Council (plenary sessions). The Council aimed to initiate proceedings during the second quarter of year 2013.

Case status: Pending

- **MC/39/2012**

Refer to 'Complaints received during year 2012', on page 27 above.

During Council Meeting No. 24/2012, held on 9th December 2012, the Medical Council decided that this case merited an Inquiry and a sub-committee was appointed. The Medical Council aims to initiate proceedings during the second quarter of year 2013.

Case status: Pending

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- **MC/40/2012**

Refer to 'Complaints received during year 2012', on page 27 above.

During Council Meeting No. 24/2012, held on 19th December 2012, the Medical Council decided that this case merited an Inquiry and a sub-committee was appointed. The Medical Council aims to initiate proceedings during the second quarter of year 2013.

Case status: Pending

- **MC/41/2012**

Refer to 'Complaints received during year 2012', on page 27 above.

During Council Meeting No. 24/2012, held on 19th December 2012, the Medical Council decided that this case merited an Inquiry and a sub-committee was appointed. The Medical Council aims to initiate proceedings during the second quarter of year 2013.

Case status: Pending

- **MC/42/2012**

Refer to 'Complaints received during year 2012', on page 28 above.

The President of the Council and a Member registered a conflict of interest on this case in the first instance. During Council Meeting No. 09/2012, held on 16th May 2012, the Medical Council decided that this case merited an Inquiry and that this is to be heard in front of the whole Council (plenary sessions).

A retired-Judge was appointed to preside on the proceedings of this case. The Medical Council aims to initiate and conclude its proceedings during the first quarter of year 2013.

Case status: Pending

- **MC/43/2012**

Refer to 'Complaints received during year 2012', on page 28 above.

During Council Meeting No. 09/2012, held on 16th May 2012, the Medical Council decided that this case merited an Inquiry and a sub-committee was appointed. The Medical Council aims to initiate proceedings during the second quarter of year 2013.

Case status: Pending

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10.3 Appeals against Applications for Registration decided by the Medical Council

- **MC/51/2011**

On 8th June 2011, the Council received an application from an Iranian Medical Practitioner who graduated in Milan, Italy, in 1992, to be granted registration in Malta by the Medical Council. Upon submitting application, the Medical Practitioner stated that he/she had never worked as a Medical Practitioner in Italy or in Iran. After graduating in 1992, the Practitioner left Italy and returned to Iran, without applying for and getting registration in Italy. He/she also stated that in Iran, he/she was not allowed to practise his/her profession. Moreover, he/she was unable to provide the full documentation needed, including the Certificate of Good Standing, due to the situation in Iran. The Medical Practitioner holds an official refugee status in Malta.

In view of these circumstances and to ensure patients' safety, during Council Meeting No. 89/2011, held on 6th July 2011, the Council decided that in order to be granted registration in Malta, he/she needs to sit and successfully pass the Medical Council Malta Statutory Examination for Medical Practitioners. The applicant was informed of his/her right to file an appeal with the Appeal Committee, in accordance with the HCPA 2003, Cap. 464.

The Medical Council was notified that on 17th August 2011, the Medical Practitioner filed an appeal with the Health Care Professions Appeals Committee. The sitting was held on 11th November 2011. The Appeals Board delivered its decision on 30th November 2011. In terms of the EU Directive 2005/36/EC and the HCPA 2003, Cap. 464, the Appeals Committee decided that the Medical Practitioner should not be asked to sit for an aptitude test, but should instead be given an adaptation period of one year, as stipulated in Directive 2005/36/EC Article 3(g), the contents of which are to be determined by the Medical Council as soon as possible. During this year, supervised practice under the responsibility of qualified professionals and further training at Mater Dei Hospital can be given. It was also explained to him/her that this adaptation period would not carry any remuneration.

During the past two years (2011-2012), the Medical Council held several meetings with the concerned competent bodies, including the Ministry for Health, the Elderly and Community Care, in order to set up and initiate a viable adaptation period which met all the required

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standards that ensure patients' safety, for instance, the adaptation period needed to include exposure in General Medicine and General Surgery.

Agreements were reached for an adaptation period of one year on a non-remunerated basis under the capacity of the Post Graduate Centre. On 6th February 2012, the Medical Council informed the appellant of the possibility that the adaptation period would be offered shortly, however, the Council was informed that he/she failed to attend the scheduled introductory meeting.

The Medical Council was later informed that the appellant was unable to attend an adaptation period which followed the normal Foundation School Programme requirements for a period of one year on a non-remunerated basis. Foundation doctors were expected to work from Monday to Saturday from 08.00 hours till 14.30 hours, with on calls. On calls vary according to the department that one is assigned to and these could be as varied as 1 in 4, 1 in 5 or 1 in 6. When on call, Foundation doctors work from 08.00 hours till 08.30 hours of the following day, with the post duty day being 'off'. The majority of the foundation doctors opt to work longer hours according to the exigencies of their clinical departments.

The appellant asked the Medical Council for a slight modification of the conditions of his/her adaptation period so as to be able to hold on to a part-time job during this year. Since the conditions given would not allow him/her to work elsewhere part time in the afternoons, the appellant asked to be allowed to work from Mondays to Saturdays till 13.00, while still fulfilling the other conditions of the adaptation period such as the relevant on call duties. The Medical Council and the Post Graduate Centre, taking into consideration the financial needs of the appellant acceded to the said request.

Nevertheless, until May 2012, the appellant failed to contact the Post Graduate Centre and to attend the introductory meetings. The Medical Council provided updates and all developments on this case to the Health Care Professions Appeals Committee by means of letter dated 10th May 2012. The appellant and his/her legal representative, were copied.

The Medical Council, by means of letter dated 7th August 2012, notified the appellant that he/she was being given a final chance to commence the requested one year adaptation period, starting on

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the 1st October 2012, after which he/she shall be granted Full Registration in Malta, provided that he/she successfully completed this training. All the bodies concerned were copied with the said correspondence for records purposes. The appellant again failed to confirm his/her attendance by the date stipulated.

In September 2012, the appellant through his/her legal advice, asked the Appeals Committee to ensure that the Council abided by its decision to provide an adaptation period to the appellant, and also requested a further meeting with the Council.

Dr Ian Spiteri Bailey, legal adviser to the Council, filed a judicial letter in the First Hall of the Civil Court regarding the final notice sent to the appellant on 5th October 2012. This final notice had been unclaimed.

During Council Meeting No. 21/2012, held on 14th November 2012, the Medical Council concluded that no further action is deemed possible on this case. The Medical Council aimed at delivering its position on this case to the appellant and his/her legal representative, to the Appeals Committee and to the Post Graduate Centre, during the first quarter of year 2013.

Case status: Closed

- **MC/93/2012**

In July 2012, the Medical Council received an application for registration in Malta from a Doctor of Osteopathic Medicine, who graduated from Touro University College, California, United States of America in 2007. The application was discussed during Council Meeting No. 15/2012, dated 8th August 2012.

The applicant was informed by means of letter and email dated 9th August 2012 that in accordance with the EU Directive 2005/36/EC, the HCPA 2003, Cap. 464, and the Medical Council's standard policy, all applicants in the possession of a non-EU first degree, were requested to sit and successful pass the Medical Council Malta Statutory Examination (MCMSE) for Medical Practitioners, in order to be granted registration in Malta. As per standard procedures, the applicant was thus provided with details on the MCMSE and informed of his/her right to file an appeal with the Health Care Professions Appeals Committee, in accordance to

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HCPA 2003, Cap. 464. The applicant was also informed that the decision of the Medical Council stood, provided that he/she had not been already fully registered in an EU Member State.

By means of email dated 13th August 2012, the applicant asked that Appeals Committee for the recognition as equivalent of the Comprehensive Osteopathic Medical Licensing Examination of the United States (COMLEX) to the MCMSE. On 13th August 2012, the Health Care Professions Appeals Committee advised the applicant to contact the Medical Council again on this matter. An email was received by the Medical Council thereafter.

During Council Meeting No. 16/2012 held on 29th August 2012, it was noted that the decision delivered on 9th August 2012, was however incorrect, and thus, the applicant was immediately sent an email, followed by a registered letter, in correction. In line with other EU competent authorities, the degree of Osteopathic Medicine is not equivalent to that of EU/Maltese basic degree in Medicine and thus it cannot be accepted for registration purposes.

The applicant was thus informed that during the preliminary assessment of his/her application, the nature of his/her first basic degree had not been properly ascertained by the Council. In accordance with the HCPA 2003, Cap. 464, and the EU Directive 2005/36/EC, applicants needed to provide proof of EU nationality, proof of EU First Basic Degree that is equivalent to the local M.D., and a Certificate of Good Standing. The original decision was withdrawn by means of letter dated 9th August 2012.

By means of email dated 31st August 2012, the applicant explained that his/her degree was recognised by the Malta Qualifications Recognition Information Centre. He/she further informed the Council that his/her degree was fully accredited in Malta as a medical degree and that it was fully recognised and accredited to MQF level 7. The applicant asked the Council to recognise the COMLEX as equivalent to MCMSE exams. The Medical Council did not accede to any of the applicant's requests. In accordance to the HCPA 2003, Cap. 464, Article 11, 1(c), the Medical Council is the regulatory competent body which assesses the qualifications of all applicants for the purpose of Registration and Licence to Practise in Malta.

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The applicant filed an appeal with the Health Care Professions Appeals Committee on 18th September 2012. The Medical Council forwarded its submission to the Appeals Board by means of letter dated 19th November 2012.

The appeal was held on Tuesday 11th December 2012 and this was attended by Dr Ian Spiteri Bailey, legal adviser to the Council, Dr Bryan Flores-Martin and the Registrar.

Case Status: The Medical Council is awaiting the decision of the Appeals Board.

10.4 Court Cases

- **MC/D/262**

This case accused Dr. Frank Portelli (MC 0642) of unethical behaviour in respect of another Medical Practitioner (the complainant) leading to a series of conflicts. Dr. Portelli was found guilty of professional misconduct.

Dr. Portelli did not attend the hearing during which the sentence was delivered, and then personally collected the decision from the Medical Council's office. A number of articles were also published in the local newspapers regarding the decision taken by the Council.

Decision by the Medical Council: Dr. Portelli was fined 10,000 Euros. If failing to pay within three (3) months, he was to be struck off the register.

Current Status of the case: Following the Medical Council's decision of the 1st July 2009, Dr F. Portelli appealed this decision by means of an application filed in the Court of Appeal in the names *Dr. Frank Portelli vs. Kunsill Mediku* (Civil Appeal No. 18/2009). The Court of Appeal did not entertain Dr F. Portelli's request by means of a judgement dated 22nd April 2010.

The same allegations, together with other allegations, were also raised in a writ of summons filed by Dr. Frank Portelli in the First Hall of the Civil Court in a case in the names *Dr Frank Portelli vs. Av. Josella Farrugia* (Citation Number 1100/2009AE). The Medical Council is objecting to and contesting all allegations made by plaintiff.

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During year 2012, this case was still pending proceedings and sub-judice. It was put off for final oral submissions.

- **MC/79/2007**

A complaint was received by the Medical Council from a patient against Dental Surgeon Dr Franco Mercieca (MC 0224). During year 2009, the Medical Council held an Inquiry on Dr F. Mercieca for alleged unethical and unprofessional conduct.

On hearing the case, the Council decided that Dr F. Mercieca's behaviour was in breach of Article 5 of the *Ethics for the Medical Profession*, that is, that: "a doctor must by his conduct in all matters set a high standard". This case exposed a situation where Dr F. Mercieca failed to:

- Take past Medical history prior to start treatment.
- To take Radiographs.
- To inform the patient beforehand of the costs involved.
- Abide by the patient's consent regarding local anaesthetic.

The Medical Council found Dr F. Mercieca guilty of professional and ethical misconduct in terms of Article 32(1) (b) and (c) of Chapter 464 of the Laws of Malta.

Decision by the Medical Council: The Council imposed a suspension of two (2) months, which will come into effect one (1) month from the date of the delivery of this judgement. The Council delivered its decision on Wednesday 19th May 2010. Upon the delivery of the decision, Dr F Mercieca accused the Council that it did not weigh the facts professionally, and that he would file an appeal in Court. Judge J. Farrugia, former President of the Medical Council, informed Dr F Mercieca's solicitor that he cannot appeal, but had to institute a law suit.

Current Status of the case: Dr F Mercieca is contesting the Medical Council's decision in the Civil Courts of Malta, by means of Court Cases 140/2010JRM and Court Case 1196/2010JRM. Court Case 1196/2010JRM, which is scheduled on 20th June 2013. Judgement on appeal no. 146/10 is also awaited. However, to date the first sitting has not yet been scheduled.

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- **MC/77/2008**

As planned a patient was to undergo an operation by two Surgeons, one of them being Dr Johanna Van't Verlaat (MC 2456), however the latter failed to go to the operating theatre while the patient was already under anaesthesia. It was thus agreed that Dr J. Van't Verlaat's behaviour was ethically and professionally unacceptable.

The members of the sub-committees issued a report and presented it to the Council for its decision. All members of the sub-committee were present during the decision.

Decision by the Medical Council: The Medical Council decided that Dr J. Van't Verlaat was guilty of professional misconduct and that Dr J. Van't Verlaat was to be suspended from the medical Council Register for a period of three (3) months and fined the amount of €10,000. The suspension was to commence a month after the sentence was read by the President of the Medical Council. The penalty was approved by nine votes in favour, two against and one abstention.

Current Status of the case: Dr J. Van't Verlaat had instituted Court Case 948/09RCP before the First Hall of the Civil Court to nullify the decision of the Medical Council. Her request was dismissed by the First Hall of the Civil Court by means of an independent delivery, on 29th May 2012. The Court rejected and dismissed the demands of the plaintiff as filed and contained in her sworn application dated 30th September 2009.

Dr J. Van't Verlaat filed an appeal.

- **MC/138/2010**

On 2nd December 2010, the Medical Council received an application for registration in Malta from Dr Isabella Zananian Desira M.D. (Georgia) 2000. The Medical Council requested evidence of her training as a Medical Practitioner, with the relevant curriculum and her achievements from the issuing University Medical School. During Council Meeting No. 83/2011, held on 3rd February 2011, the Council accepted her course curriculum as equivalent to a Doctorate in Medicine. However, as per law and standard procedures, since Dr I. Zananian Desira is a third country national and has a Non-EU first degree, in order to be granted registration in Malta, she was requested to sit for and successfully pass the Medical Council

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Malta Statutory Examination for Medical Practitioners. Dr I. Zananian Desira was informed that in accordance with the HCPA 2003, Cap. 464, she may file an appeal with the Health Care Professions Appeal Committee.

On 1st March 2011, the Council was informed that the applicant had filed an appeal with the Appeals Committee. The sitting was held on 31st May 2011. Dr I. Zananian Desira alleged that the Council's decision ran counter to Section 45(2) of the Constitution of Malta and to Article 3(2) of Legal Notice 280(2006), and that the said decision was '*ultra vires*'.

After investigating the case, the Appeals Committee delivered its decision on 22nd June 2011. It was decided that the Council acted in conformity with the proviso in Section 11(1)(c) on which its 'standard policy' is based; and thus that it was competent to decide so and did not act '*ultra vires*'. The decision also stated that the Council is duty bound to assess qualifications within the law. The Malta Qualifications Council recognises qualifications but not the right to practise a profession, and this right fell in the remit of the Medical Council.

The decision emphasised that both the Medical Council and the Appeals Committee had to abide by the HCPA 2003, Cap. 464, and they have no competence to decide whether the Act is in conformity or not with the Constitution of Malta. In view of these arguments the appeal filed by the Medical Practitioner was rejected and the decision of the Medical Council was confirmed. Case status: The Medical Practitioner filed this case in front of the Civil Court

Decision by the Medical Council: Dr I. Zananian Desira was requested to sit for and successfully pass the Medical Council Malta Statutory Examination for Medical Practitioners in order to be granted registration in Malta.

Current Status of the case: On 18th August 2011, the Medical Practitioner filed this case in front of the First Hall Civil Court against the Medical Council. Case 740/2011JRM is still pending.

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- **MC/27/2009 (MC/78/2008 – case considered closed)**

Refer to Sections '10.2.1. Inquiries Decisions Delivered', MC/27/2009 (MC/78/2008 – case considered closed) on page 32 above.

Decision by the Medical Council: The Medical Council found Dr L. C. Buhagiar guilty of professional misconduct. Dr L. C. Buhagiar was to be suspended from the Register for a period of one (1) month and fined the sum of five thousand Euros (€ 5000). The suspension was to come into effect after five (5) months from the delivery of the said decision.

Current Status of the case: On 26th September 2012 Dr L. Buhagiar filed a judicial letter in the Civil Courts of Malta, which was received on 2nd October 2012 by the Council. Dr I. Spiteri Bailey submitted the Council's reply in Courts of Malta on 5th October 2012. Dr. L. C. Buhagiar is presently contesting the Medical Council's decision in the Civil Courts of Malta. Court Case No. 1043/12JRM was adjourned for Tuesday 12th February 2013.

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11 Important Events, Achievements and Contributions of the Council

11.1 Federation of European Dental Competent Authorities and Regulators (FEDCAR) General Assembly 25th - 26th May 2012, Malta

Malta is part of the Federation of European Dental Competent Authorities and Regulators of Europe (FEDCAR), which brings together European Orders and Bodies responsible for the regulation, registration and supervision of dental practitioners. Through this network, countries share information and good practices on the regulation of dentists. FEDCAR's secretariat is located in Brussels and is hosted by the French chamber of dentists.

FEDCAR aims to promote common positions to the EU legislator, thus shared opinions on and approaches to new initiatives and legislation at European level, such as issues of migration of dentists, the European Professional Card, Language issues, tooth whitening, price control, amalgam, and Continuing Professional Education (CPE). FEDCAR's main objectives are to:

1. Promote patient safety in Europe
2. Promote high standards of dental care in Europe
3. Contribute to safe facilitation of dental professional mobility within the EU.

In year 2012 Malta held the Presidency of FEDCAR and the President was Dr David Muscat. FEDCAR Spring Meeting was hosted in Malta between Friday 25th and Saturday 26th May 2012. Honourable Minister Dr Joe Cassar, Minister for Health, the Elderly and Community Care was invited to deliver the opening speech at the Conference, held at the Grand Hotel Excelsior in Floriana. This Conference was attended by 22 delegates from several European countries, who were welcomed on Friday 25th May 2012 by a dinner at De Mondion Restaurant in Mdina.

Annex 6: DOI Press Release 1199, 26.05.2012

Annex 7: Minutes on FEDCAR - General Assembly 26 May 2012,

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11.2 Quality Assurance for the Malta Foundation School Programme

The Medical Council, Malta (as the regulatory body for the Medical profession) has been entrusted by the UK Foundation Programme with the Quality Assurance of the Malta Foundation School. The Medical Council appointed Dr Doreen Cassar and Dr Bryan Flores Martin for three (3) academic years starting from October 2009 with the responsibility to carry out this process. Both have gone on separate Quality Assurance visits of Foundation Programmes held by the GMC and PMETB in the UK as observers.

The Foundation Programme Malta is an affiliate of the UK Foundation School. In principle it follows the same aims, methodologies and assessment processes. As the Maltese health service and context is different to that of the UK, nomenclature and structure of the Malta Foundation School may not always be congruent. In essence the Malta Foundation School is quality managed by the Clinical Post-graduate Training Co-ordinating Committee (CPTCC) also known as the Foundation Board.

In 2010, the Medical Council had adopted the United Kingdom Foundation Programme (UKFP) guidelines, 'The New Doctor', for the F1 and F2 doctors, to be the standard competences requirements for full registration. The GMC UK granted its permission provided that the Medical Council ensured that the regulations on the Foundation Programme fell under its jurisdiction, and that these were not to be confused with GMC regulations of the Foundation Programme in the United Kingdom. Whilst a Foundation Programme is being delivered in Malta, affiliated to the UKFP, it was important that, at all times, it was made clear that the regulation was being undertaken by the Medical Council Malta and not by the GMC.

In 2011, the UK Foundation School Programme (FSP) was not only satisfied with this first Quality Assurance report, but it also decided to extend the Agreement until year 2016. The Malta Foundation School had been granted re-affiliation by the UK FSP.¹⁴

Since 2009, the Quality Assurance exercise was in fact a notable success. The Medical Council's purpose in this exercise was to quality assure the Malta Foundation School

¹⁴ Report may be accessed from the Malta Foundation School website:
<http://www.fpdoctors.info/index.php?mact=News,cntnt01,detail,0&cntnt01articleid=24&cntnt01returnid=66>

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Programme so that its graduates were considered well prepared to be fully registered by the Council and to ensure that the Malta Foundation Programme retained its affiliation to the UK Foundation Programme. The Medical Council, through its Quality Assurers, was committed to achieve these successful outcomes throughout the years to come.

• **Quality Assurance Exercise 2012**

The Medical Council's Foundation Programme Quality Assurers carried out a quality assurance exercise of the Foundation School with extensive involvement of all parties concerned and information correlated with the school's own quality assurance data, between 2nd and 8th May 2012.

The Quality Assurance /Team (QAT) reported its findings and conclusions to the Medical Council and issued its Quality Assurance Report in July 2012.¹⁵ The QAT concluded that the Foundation School met the standards for delivering the Foundation Programme with regards to the structured teaching, the hands-on training and the assessments whilst working in a supervised hospital or primary-care environment as described in the Reference Guide. The QAT acknowledged the work done by the Foundation School to meet the requirements indicated in the Report on Foundation School Malta February 2011¹⁶ and the recommendations therein¹⁷.

The Quality Assurance Exercise 2012's report commended the Foundation School Malta for its notable practices identified during the site visit undertaken as part of the process:

- The Programme Manager and the Foundation School Directors were highly committed to their task and to lead the Foundation School for the benefit of all the Foundation Doctors and the general public.
- The quality of the Trainee Support Team policies and the team's commitment to support the foundation doctors, and values the work done in career advice and support.
- The policies and procedures introduced to ensure the quality of education and training were constantly being upgraded.

¹⁵ Quality Assurance Report on the Foundation School Malta, July 2012, may be accessed from: https://ehealth.gov.mt/HealthPortal/others/regulatory_councils/medical_council/annualreport.aspx

¹⁶ Refer to Quality Assurance Report on the Foundation School Malta for year 2011 on pages 21 to 27

¹⁷ Refer to Quality Assurance Report on the Foundation School Malta for year 2011 on pages 28 to 26

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- The Foundation School moved into the introduction of the four month rota as advised by the UKFPO.
 - The Foundation School fostered an internal constant process of monitoring and analysis of the outcomes of the Foundation Programme in place and used of this data to further improve the quality of the foundation training.
 - The Directors of the Foundation Programme used the competence adherence process to map the competencies required by the Foundation Programme Curriculum to all the foundation programme tracks.
 - The increase in Associate School Directors and Training Directors.
 - A substantial commitment in training of Educational Supervisors and the successful work done to keep these professionals up to date with changes to the Foundation Programme
 - The provision of one to one Clinical Supervisors.
 - The Foundation Programme's Administrative staff exercised an open door policy to support the Foundation Doctors despite the obvious human resource problems.
 - The two week of remunerated induction for all Foundation Doctors Year 1 before they begin their work, such conceded to by the Health Division.
 - The issue and updating of 'The Perfect House Office Guide' which caters for the local hospital and social practices and for the Malta Foundation School.¹⁸
 - The continuing good relationship with the hospital administration; the latter's commitment towards education and training as evidenced by the constant support for protected time.
 - The Primary Health Care Department for the appointment of a Foundation Programme Coordinator to ensure appropriate management and overview of the Foundation Doctors Year 2 placements in General Practice/Family Medicine, and also to liaison with the Foundation School Directors.
 - The Foundation Doctors' commitment and team spirit and the efforts taken in self help and lead.
 - The improved induction, organised training and general support to the Foundation Doctors' needs shown by the different departments in particular the Foundation Doctors' perceived improvement in the Accident and Emergency Department.

¹⁸ Refer to Quality Assurance Report on the Foundation School Malta for year 2011

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The report identified the following requirements to the Foundation School and the Foundation Programme:

- The Foundation School needs to ensure that the present dissemination of all its policies to all stakeholders is maintained.
- The Foundation School must ensure that Educational Supervisors and Clinical Supervisors adhere to its policies especially in respect to their duties. Compulsory regular updates to all stakeholders should also be considered.
- The QAT recommended that the Foundation School should lay plans for the appraisal of both Educational Supervisors and Clinical Supervisors so that remedial action may be taken if appropriate.

The report included the following recommendations to the Foundation School:

- The Foundation School should remind Educational Supervisors of their responsibility to be available to meet Foundation Doctors on a regular basis during each placement to discuss their progress, outstanding learning needs and how to meet them.
- The Foundation School should provide more guidance on the use of taster and validity of taster weeks and further encourage this opportunity.
- Tasters in the academic stream are to be planned and encouraged.
- Although not within its remit, the Foundation School together with hospital authorities should ensure that Foundation Doctors can take their due vacation and study leave.
- The Trainee Support Team should ensure the completion of all its planned structures.
- The Foundation School should insist with the Medical School (UoM) for 'Transfer of Information' of the graduates. This would ensure that difficulties, if existent, are picked up early on.
- Foreign applicants have different curriculum and examination dates from the local applicants. The use of teleconferencing for the applicants' interviews should be strongly considered.

The Foundation School agreed to provide a plan to meet the requirements and recommendations set in the report, within three months. A further audit was envisaged within twelve months from the endorsement of this report if the plan from the Foundation School was found lacking.

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This report was forwarded to the Foundation School Malta so as to follow recommendations and/or requirements. As per protocol, the Foundation School submitted its response document on the Quality Assurance report of the Malta Foundation Programme to the Medical Council.

- **Future Quality Assurance Exercises**

The frequency of Quality Assurance for UK Foundation Schools, to which Malta is affiliated, occurs every 2 to 3 years, or as necessary. Within the first three (3) years, since 2009, in which the Malta Foundation School has been operating, the Foundation School has been requested to undertake two (2) quality assurance exercises. These were concluded successfully, and the recommendations of the Medical Council were addressed.

Following this year's exercise the Foundation School was granted the necessary time to undertake the necessary changes as highlighted by the Quality Assurance Team. Meanwhile the Medical Council is entrusted to analyse the response of the Foundation School and identify the need to hold a third exercise in 2013.

11.3 Bill 118: Embryo Protection Act, 2012

During Council Meeting No. 16/2012, held on 29th August 2012, the Medical Council set up a sub-committee in order to discuss the implications of Bill No. 118, entitled the Embryo Protection Act, presented in Parliament for the 2nd reading, on the Medical profession and of patients' safety and to draft comments and recommendations. This sub-committee was composed of the President of the Medical Council, Mr John Cauchi, Dr Doreen Cassar, Dr Daniel Farrugia, and Dr Paul Soler.

Two (2) sub-committee meetings were held on 5th and 10th September 2012 and a report was prepared. The position of the Medical Council on this Bill was presented to the Ministry for Justice, Dialogue and the Family, and copied to the Ministry for Health, the Elderly and Community Care, by means of letter dated 14th September 2012.

On 21st November 2012, the Medical Council issued an urgent Press Release to all Members of Parliament, and informed the Editors of all dailies.

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In its Press Release, the Medical Council acknowledged that *'the purpose of the Act was to protect life and that infertility treatments were difficult and ethically sensitive procedures'*. The Medical Council declared that it *'maintains that it is essential that all medical and non-medical practitioners, whether Maltese, EU nationals or non-EU nationals, involved in this process and providing this service in Malta be effectively regulated by a competent authority in Malta'*. It was also emphasised that *'an important function of this authority is to establish, monitor and enforce a code of good practice by limiting the number of embryos to be transferred in any one cycle'*. The purpose of this Press Release was *'that the Medical Council ensures that the Embryo Protection Act is implemented to its full effect for the protection of the individuals and society'*.

The final reading was held in Parliament on Thursday 22nd November 2012. The Embryo Protection Act, No. XXI of 2012, entitled, An Act to provide for the protection of human embryos and other ancillary matters, was published on 4th December 2012.

11.4 Draft National Standards of the Use of Medicine

In September 2012, the 'National Standards for Use of Medicines' was drafted and launched for consultation by the Superintendent of Public Health Regulations. This document was intended to provide the standards applicable to all those responsible for and involved in the prescribing, preparation, administration and use of medicines including the management of health care establishments, healthcare professionals, patients and carers.

The Medical Council was invited to forward its feedback and contribution on this document by 22nd October 2012. During Council Meeting No. 18/2012, dated Wednesday 26th September 2012, the Medical Council appointed a sub-committee in order to discuss this document and draft the position of the Medical Council in this respect. The sub-committee was made up of the President of the Council, Dr Daniel Farrugia, Dr John Felice, and Dr Alex Magri.

Two (2) sub-committee meetings were held on 11th October 2012 and on 18th October 2012. The Medical Council forwarded its comment and remarks on the Draft National Standards for Use of Medicines to the Superintendent of Public Health on 23rd October 2012. In its position, the Medical Council aims at promoting the principle that the 'National standards for use of Medicines' must only allow qualified Health Care Professionals who have the required

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pharmacological knowledge and skills for recognising and managing adverse reactions to prepare and administer medicines.

The Medical Council also suggested that the Health Care Professionals qualified to administer medicines parenterally are identifiable (for instance, by wearing a badge or a tag) in order to ensure that tasks are delegated to individuals who are competent in their performance. The Medical Council emphasises that it needs to be specified who is authorised to transcribe and to ensure that regular review by the prescriber is conducted. The Medical Council also feels that the administration of placebos to patients without their knowledge and informed consent should for ethical reasons be avoided if at all possible.

The Council contends that the participation of patients and / or their carers in the administration of medicines, does in no way exonerate the health care professional from explaining clearly the appropriate administration of such medicines. In such a setting the Health Care Professional must encourage the patient to undergo regular review to ensure that the patient is taking his medication appropriately.

The Medical Council emphasised the importance of having Health Care establishments provide for the adequate manpower and training when dealing with the use of medicines within the establishment. It is also up to the Healthcare establishment to ensure that the assigned roles and responsibilities are communicated to and understood by those persons involved.

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12 The Way Forward

- **Guidelines of Penalties**

In 2010, the Medical Council, with unanimous agreement, decided that there needed to be a set of guidelines on the penalties to be imposed during Inquiries. During that time, the Medical Council's legal adviser presented to the Council a paper advising on some sort of sentencing policy or sentencing guidelines where and when the Council arrived at the conclusion that any Medical Practitioner and/or Dental Surgeon had been found guilty by a Board of Inquiry. The Medical Council was guided on the fact that there were pros and cons to having a sentencing policy, or better still, sentencing guidelines.

The aim of the Council was to critically analyse and evaluate both options and proceed with adopting the best procedure through which its regulatory role may be exercised.

During year 2012, it was impossible for the Medical Council to dedicate the appropriate attention and time to analyse this report with the aim of adopting an effective position due to a substantial increase in Complaints, Inquiries and more urgent matters. Nevertheless, the Council aims to attribute the requested resources to this matter during the year 2013.

- **Code of Ethics**

The Medical Council intends to continuously update the Code of Ethics, with the aim of addressing the dynamic environment in which Medical and Dental professionals operate.

- **Code of Ethics on Advertising and Financial Conduct by Medical/Dental Practitioners**

During year 2012, a sub-committee was set up to review the position of the Medical Council on advertising and financial conduct by Medical and Dental Practitioners. This sub-committee was entrusted to review the present guidelines with the aim to ensure patients' safety and high professional standards while better address the exigencies of the national and international dynamic environments in which professions strive to perform their duties.

The Medical Council aimed at finalising this document by mid year 2013. Afterwards, queries and complaints on these matters shall be primarily tackled by the said sub-committee.

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- **Medical Council Malta Statutory Examinations (MCMSE) for Medical Practitioners and Dental Surgeons**

The Medical Council aimed at providing all future applicants for the MCMSEs with a set of standard procedures and guidelines on these examinations, by end year 2013. The aim of the Council is to ensure transparency and accountability to the applicants and the general public.

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13 Concluding Remarks and Acknowledgments

This report attempts to provide an overview of the main roles and responsibilities held by the Medical Council in regulating, guiding and assisting the Medical and Dental professionals in ensuring the well-being of the Maltese citizens.

The Medical Council operates in a dynamic environment, which requires continuous dedication and full commitment towards making Medical regulation closer to citizens' needs, thus ensuring a regulatory system which is sensitive to local contexts and which meets the demands that a modern society places on it.

During the past year, the Medical Council strived to fulfil its duties and obligations towards the Maltese Society by *“safeguarding patients' rights and safety: by protecting, promoting and maintaining the health of the general public; by ensuring proper standards in the practice of Medicine; as well as by safeguarding the values and integrity of the Medical and Dental professions”*.

On behalf of the Medical Council, I take this opportunity to thank our new President, Dr Ilona Debono, for her dedication and commitment towards the Medical Council and its operations. On a personal note, I sincerely would like to thank her for her assistance and guidance she has provided me throughout the past year we worked together.

I also take this opportunity to thank all Members, past and present, for their work and dedication towards realising the mission of the Medical Council.

On behalf of the Medical Council, I would also like to congratulate Mr Charles Messina for his appointment as Commissioner for Health in the Office of the Ombudsman on 1st August 2012 and to wish him a prosperous term. I take this opportunity to thank him for his devotion and enthusiasm as Member of the Medical Council during his term.

Finally I would like to thank Ms Kristabelle Buhagiar, who quit her secretarial duties with the Council in November 2012, for her diligence. I thus would like to welcome our new secretary, Mr Emanuel-John Falzon, and wish him a prosperous period.



Svetlana Cachia B.Com.(Hons.)(Melit.), M.A.(Public Policy)(Melit.)
Registrar
Medical Council Malta

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Annex 1:

6th Meeting, European Network of Medical Competent Authorities Ministry of Health, Rome, 23 January 2012

On behalf of the Medical Council, Malta, I attended the Rome 6th Meeting of the European Network of the Medical Competent Authorities co-hosted by the Ministry of Health of Italy and the FNOMCeO, the Italian Federal of Medical Orders.

The meeting was attended by over 40 representatives of twenty EU and EEA states together with Mr J. Tiedje and Mr A. Zsigmond from the EU Commission. Other delegations missed the meeting due to the Rome transport industrial action.

The meeting was an opportunity to meet and discuss the EU proposal to amend the Directive on the recognition of professional qualifications that was published in December 2011 and to consider a joint network position on the said proposal following a similar joint position taken when the Green Paper on the Directive was issued.

Following the introduction by one of the co-hosts Dr Giovanni Leonardi from the Ministry of Health, the meeting was addressed by J. Tiedje on the "Proposal for a revised recognition Directive." Whilst emphasizing that the proposed changes were primarily meant to ensure problem-free movement of individuals across European borders, he conceded the issue of patient safety was of some importance but insisted that these should not be a hindrance to registration and the latter were to be tackled by employers or patient organizations. He singled out Malta and Luxembourg on the language issue and specified that only one of the national languages should suffice. During the open and frank discussion that followed, Mr Tiedje was on the defensive when faced with the following issues:

1. Verification of certification to be done by member state of origin not the host state.
2. The very short two week window in which to perform these verification.
3. The concept of failure to take decisions within the two week window to be taken as tacit approval.
4. The exact mechanism of the IMI. Most representatives agreed with e-certification but insisted on the obligatory nature of IMI registration and the constant up-dating.
5. Language issue, no country agreed with the EU position and all insisted that language check should take place before registration. No country felt that there were any patient organization which could assess the professionals' language capability and all agreed that the reporting problems caused by difficulty in communication after they had actually occurred made nonsense of patient safety.
6. Malta was the only vocal opponent to changes envisaged with course content and duration. However, the eventual common stand took up our position that course content and duration (5500 hours and five years) should remain under the remit of the member states.

Ms Shubert (BMA) was entrusted to draft the common position of the Network of Medical Competent Authorities' common position to the EU Proposed Amendments to the Directive and to convey this on final approval to the responsible EU body.

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It was also decided to set up a Network web site to enable the individual authorities to communicate with each other and to act as an information site to the general public.

Finally the venue next meeting in Brussels was decided, but pending progress of the proposed legislature in the EU Parliament/Commission.

During informal discussions, Mr Tiedje showed very detailed knowledge of Malta's language problems and the nature of our dual private/public health service. However, he showed little sympathy to our country's needs and worries.

Dr Bryan Flores Martin
Council Member

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Annex 2:

7th Meeting of the European Network of Medical Competent Authorities (ENMCA) General Medical Council, 350 Euston Road, London, 13 April 2012

Dr Doreen Cassar represented the Medical Council Malta at the above meeting.

This meeting provided an opportunity to discuss the proposal amending Directive 2005/36/EC on the recognition of professional qualifications.

The meeting was of a technical nature and was primarily aimed at discussing joint amendments that ENMCA wished to propose to the European Parliament and the Council during their deliberations on the recognition Directive.

Twenty EU Competent authorities were represented at this meeting. Amongst whom was the a member that also sits on the European Commission Committee debating the proposal for change in Directive 2005/36/EC. Her presence was instrumental in understanding the position of the Commission and how the Competent Authorities could frame their proposals such that they could be considered but the EU Commission.

The areas discussed were:

- Role of competent authorities
- IMI and professional cards
- Partial Access
- Temporary and occasional
- Evidence of practice
- Modernising automatic recognition
- Common training frameworks
- Knowledge of languages
- IMI and alert mechanisms

Malta presented its position on:

- Maintaining the innocence of professionals until declared guilty
- Considering the testing of language for ensuring patient safety
- Not shortening the time for the Competent Authority to process requests for professional mobility due to its lack of staff
- Allowing the host country to decide own training frameworks while conforming to the Bologna process
- Use of the IMI and alert mechanisms such that Certificate of Good Standing is issued but home member state

It is to note that Malta's proposals were agreed to.

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A joint declaration as a counter proposal to the European Commission's proposal was drawn up and agreed upon by the 20 EU Competent Authorities. This document is presently of a internal confidential nature and is attached as an appendix.

The meeting took place in English and started at 9:00 (registration from 8:30). The meeting ended at 16:00.

Dr Doreen Cassar
Member Medical Council Malta

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Annex 3:



8th Meeting of the European Network of Medical Competent Authorities Cyprus Medical Council, Larnaca, Cyprus, 14 September 2012

Participants:

The 8th Meeting of the European Network of medical Competent Authorities (ENMCA) was attended by Austria, Cyprus, Denmark, Estonia, France, Germany, Hungary, Ireland, Italy, Malta, Netherlands, Portugal, Slovenia, Sweden, and United Kingdom

Session 1: Proposal amending the recognition of the professional qualifications Directive

1. Network participants were given an update on latest developments in the European Parliament and European Council. Both institutions will need to reach agreement on the new recognition of professional qualifications Directive before it is adopted.
2. Network participants discussed in groups some of the new proposals coming out of the European Parliament's Internal Market and Consumer Protection (IMCO) and Environment, Public Health and Food Safety (ENVI) committee reports and the European Council.

European Professional Card (EPC)

3. Several groups highlighted the importance of piloting the EPC prior to its introduction.
4. Participants highlighted that the new timelines proposed in the IMCO and ENVI reports are step in the right direction, but would still be challenging.
5. The current proposals suggest that the European Commission (EC) be given authority to set fees for recognition under the EPC. The Network felt that national authorities should be able to set reasonable fees and the EC should not have a role in this.

Alert mechanism

6. The Network were encouraged that the Parliament proposed to cover all doctors, regardless of their route to recognition, under the same alert mechanism. Some participants highlighted that there still a number of questions that needed to be addressed in relation to the practical implementation of the mechanism.

Language

7. Participants considered the amendments put forward by the European Parliament on language. Many highlighted that the ENVI suggestion for competent authorities to assess for

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language after recognition but before access to the profession was helpful and in line with ENMCA's amendments.

Continuous Competence

8. Several participants considered that the proposal in the IMCO report to allow competent authorities to introduce additional measures on professionals after recognition if they have not worked for the last four years

Specialist medical training

9. Participants considered the suggestion in the IMCO report for all specialist training courses to be at least five years. Several organisations highlighted that they have speciality training which are less than five years in length.

Delegated and Implementing Acts

10. The Network agreed that the EC must involve competent authorities in the development of delegated and implementing acts and welcomed the suggestion in the IMCO report for authorities to be consulted.

Next steps

11. The ENMCA coordinators highlighted that they propose to build on the Rome Position statement, ENMCA amendments and the views expressed in the group discussion to put together a short ENMCA briefing, highlighting competent authorities' views on the EP reports.

12. The coordinators highlighted that they would like to trial a new approach to finalising ENMCA briefings in order to be flexible and responsive to the European Institutions. It was suggested that instead of including a list of individual signatories from each organisation, this briefing is adopted on behalf of ENMCA unless any objections are raised. Participants did not raise any problems with this approach.

13. The coordinators propose to continue engaging with the European institutions to ensure the network's priorities are taken into consideration in the review. The coordinators will be hosting an event for MEP assistants in the European Parliament on Tuesday 25 September, in order to highlight ENMCA's priorities for the revision of the Directive. A note of this briefing session will be sent to participants after the event.

14. As part of this engagement work, a leaflet and factsheet have been produced on ENMCA's work and key priorities. Participants were asked to contact the coordinators to share any feedback or comments on the materials. These documents will be uploaded onto the members section of the website.

Session 2: EC Action Plan for EU Health Workforce and plenary discussion

15. The coordinators presented the Action Plan for the EU Health Workforce of the EC and the EC feasibility study on EU level collaboration on forecasting health workforce needs.

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workforce planning and health workforce trends published last April. Following the Action plan, the EC together with the Member States will launch at the end of 2012 a Joint action on workforce planning, which aim is to create a European platform to share good practice and to develop methodologies on forecasting health workforce and skills needs.

16. The coordinators held a roundtable discussion which focused on national experiences and views on telemedicine and Continuous Professional Development (CPD) and Continuing Medical Education (CME).

17. After a short presentation about telemedicine and the main challenges participants discussed telemedicine in Europe and various definitions of telemedicine practice. It was clear that competent authorities regulate telemedicine services and professionals offering remote medicine, in very different ways. Participants identified that this might be a potential area for future work of the network. Participants were asked to complete a short questionnaire on telemedicine, which is available on the ENMCA website.

18. On CPD/CME, participants agreed there were a variety of approaches and models across the EEA and the Danish Health and Medicines Authority presented the outcomes of their current study on CPD/CME. Participants were requested to complete a questionnaire on the topic, which was originally distributed in May 2012. This questionnaire, along with the slides, is available on the ENMCA website.

19. Participants also discussed identifying and comparing training across Europe; not only to assist with recognition but also for the quality of care and patient safety.

Session 3: Beyond the Directive: Future ENMCA activities

20. After deciding to continue its' activities after the modernisation of directive 2005/36/EC has come to a close, the Network debated the future activities of the Network in groups. The priorities outlined by the groups are detailed below:

- Implementation of RPQ Directive:
 - Involvement in development of delegated acts e.g. alert mechanism and professional card
 - Participation and coordination of pilot projects
 - Forum to exchange good practices for implementation to ensure consistent transposition
 - Development of Memorandum of Understanding on information sharing
- ENMCA research:
 - Development of medical education and training database: collect data from participants to compare lengths of basic and specialist qualifications, scope of practice of number of specialities, better understanding divergences and commonalities of specialist training etc.
 - Collecting data on national practices for continuous Professional Development/Continuing Medical Education

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- Comparison of professional standards
 - Registration requirements for International Medical Graduates: comparison between Member States
 - Telemedicine
 - Further EU initiatives
 - Telemedicine
 - Health workforce
 - Greater use of website
 - Including links to live registers
 - Grant key stakeholders access
 - Making research more widely available
 - ENMCA organisation
 - Regular meetings (quarterly or biannual)
 - EU Presidency country is invited to join coordinators
 - No formal statutes – ENMCA remains informal network.

21. The list above reflects the topics suggested at the meeting and does not constitute a future ENMCA work programme.

Future meeting

22. The next ENMCA meeting will take place in early 2013. Host details and dates for the meeting will be confirmed shortly.

Annex 4:



ENMCA views on the European Parliament reports on the proposal amending the recognition of professional qualifications Directive (2005/36/EC)

The European Network of Medical Competent Authorities (ENMCA) brings together organisations in Europe responsible for recognising medical qualifications under the Directive.

We have produced the following statement in response to the IMCO draft report and ENVI draft opinion on the proposal, which reflects discussions that we had at our latest meeting in Cyprus in September.

We welcome that both reports have taken into consideration the specificities of healthcare professionals, in particular doctors, and the need to enhance patient safety.

European Professional Card (EPC) (Article 4)

We welcome the proposed increase in timescales for recognition proposed in the ENVI draft opinion (Ams 14; 17; 18) but consider the **deadlines suggested in the IMCO draft report would still be very challenging** for the host and home competent authorities to meet (Ams 24; 29).

We still maintain that the most effective way to ensure the successful implementation of the EPC would be to have pilot projects between competent authorities. This would ensure that the system is safe, appropriately resourced and delivers benefits for both the profession and competent authority.

We support ENVI's proposal to delete tacit authorisation (Ams 19). It would not be safe if doctors were able to start practising without explicit authorisation by the host competent authority.

Language requirements (Article 53)

We welcome the approach taken by the ENVI committee which suggests **language must be assessed systematically by competent authorities after recognition but before access to the profession** (Ams 55). This respects the fundamental principle of recognising qualifications but acknowledges the legitimate need for competent authorities to assess a doctor's language skills before they are granted access to the profession.

However, we believe that it should be the professional's responsibility to ensure that they have the appropriate language skills to practise the profession as opposed to the approach taken in the Commission proposal. This would ensure a fair system is created for all doctors, regardless of whether they are trained within or outside the EEA.

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Alert mechanism (Article 56.a)

The IMCO and ENVI draft reports make important improvements to the alert mechanism (IMCO Ams 80 and 82, ENVI Ams 3; 57; 59; 60; 62).

The proposal in both reports to extend the alert mechanism to **the exchange of intelligence about individuals that try to register with fake diplomas or false identities** would also introduce important safeguards for competent authorities and patients.

Continuous competence

Currently professionals are not required to provide any evidence of current practice as a condition for automatic recognition, which means competent authorities are required to automatically register professionals who may have been out of practice or not kept their knowledge and skills up to date.

We ask the European Parliament to take this into consideration in their amendments.

Delegated acts – Role for Competent Authorities

ENMCA still remains concerned about the quantity and quality of legislation which the Commission is proposing to develop through delegated acts. We would like to highlight that medical education and training is a Member State competence.

We call for clear and active participation of competent authorities in the development of any delegated acts. ENMCA is well placed to support the Commission in this regard as a forum bringing together medical competent authorities across the EEA.

Partial Access

We welcome the amendments in both the IMCO and ENVI draft reports to strengthen the exemption to partial access for healthcare professionals. This is essential for patient safety (IMCO, Am. 1 and 34, ENVI. 1 and 23).

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Annex 5:

Meeting of the Federation of European Dental Competent Authorities and Regulators Paris, 30 November 2012

The meeting was attended by 17 delegates from Belgium, Croatia, Estonia, France, Germany, Ireland, Italy, Luxembourg, Malta and Spain.

Malta holds the Presidency of FEDCAR in 2012. The President is Dr David Muscat.

After adoption of the minutes of the last meeting which was held in Malta on 26th May 2012 there were several presentations.

1. Presentation by Dr Udo Lunke, President of Landeszahnztekammer Baden-Wurttemberg

Dr Lenke presented the system that is in place in this region of Germany where the dental patient has the right to a 'second opinion.'

In Baden-Wurttemberg there are 10.7million people and 8,695 dentists. Patients are happy with 90% of the dentists but do not trust 10% fully with their proposed treatments and costs.

In the whole of Germany there is a dual health insurance system. There is both the statutory and private. There is a strong political interest in patient counselling, and there is a 'patients' rights act.' There is a need to inform the citizens and there is public pressure through the media landscape. The patient has a right to access to information.

Key Principles of Dental Patient Counselling:

- a. professional and socially competent
- b. easily accessible
- c. quality assured
- d. free of directives and economic interests
- e. neutral, discreet and independent
- f. transparent
- g. understandable

All counselling will be documented. There is a toll-free telephone hotline for counselling.

In Baden Wurttemberg the patient can request a free dental expert appraisal. This is paid by the dentists association –all dentists have to be members of this. The dental appraiser may not treat the patient for at least 2 years.

There is an expert commission for matters of dental liability. This functions as an out of court conciliation board in case of a dispute. With informed citizens, there is information and transparency as an expression of professionalism.

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2. Presentation by Mr P. Fortuit, Members of the French Pharmacists Chamber on the EU Professional Card pilot project led in France by pharmacists.

All pharmacists in France have the card.

It is used for insurance companies to enable them to pay the pharmacist so patients do not have to pay at the pharmacy. This card also validates continuous training.

The card is a link between the professional and the database. It worked well and also allowed pharmacists in different parts of France to log into the drugs a particular patient was taking if the patient travels and sees a different pharmacist. The card as it is now is different to what it was originally envisaged to be. The card allows one to check if the professional actually has the qualifications, and if there are any restrictions. With the new card if a pharmacist is disciplined one day, it will appear on his electronic card the next.

The electronic certificate is a tool which can ensure to any patient in Europe that the dentist is a qualified health professional so they can be mobile in the 27 countries.

The idea is to have a reactive, constantly updated instrument.

In the ideal world the electronic certificate should be an electron seal using secure algorithms and not sent as a pdf.

The Irish –represented by Dr Murphy stated that they feel that the IMI works well and that they do not see the point of ‘duplication’ with the card. Mr Fortuit stated that the IMI is a good step in the right direction but all countries have to play by the same rules and reply within 24 hours. The IMI should be a platform of information exchange and not a database.

3. Presentation by Mrs Le Grip, MEP, Shadow Rapporteur (EPP party) at IMCO Committee on Revision of Directive 2005/36

Commissioner Barnier has stated that the potential for economic growth lies with mobility. There is a move to improve the internal market, to enable free circulation which is one of the objectives of the EU and to improve the economy. The commissioner of the internal market and consumer protection wishes to increase safety to consumers in Europe. The areas of agreement are that for partial access dentists are excluded as they benefit from automatic recognition. Regarding the professional card parliamentarians wish to convey a positive message as it is felt that this is a concrete tool, readable, explainable, and will allow better mobility. It will be done on a voluntary basis and there is nothing binding on other states who do not wish it. There are some groups who are hostile. .Regarding language testing there are political and economic challenges and we do not wish to create additional barriers. However there is a true health issue, that is, the minimum language requirement. It is up to member states to see how they plan to go about language testing. However this cannot be done as a means of preventing mobility.

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The Directive 2005/36 Status of the Revision

With the professional card the member states are responsible for fees. There will be a one year validity. One has to decide within one month. There is a tacit authorization but a stop the clock provision of 2 weeks .An IMI file is created when you create a professional card. Only the competent authority will have access to the IMI file.

With free provision of services the professional has to declare their knowledge of language to the host states competent authority and evidence of professional liability insurance cover.

There is an issue of whether language testing should be before or after recognition.

Language has to be up to C1 of CEFR

- a. can understand a wide range of demanding, longer texts and recognize implicit meaning
- b. can express himself fluently and spontaneously without much obvious searching for expressions
- c. can use language flexibly
- d. can produce clear well structured detailed text on complex subjects.

With CPE there is no obligation, and thus the national law applies.

The alert mechanism-needs to be proactive to reinforce trust. Is the Health ministry competent to receive information that is usually for the Justice ministry?

There was a move to change the wording on the definition of dental training, as proposed by the liberals but this was given short shrift.

Dental training 5 years AND 5000 hours as a MINIMUM. At FEDCAR we wish to add that it should be FULL TIME.

Min training for specialized dentists

3 years and ECTS credits

3 years in council

For new dental specialities there has to be at least two fifths of Member States who are in favour. However this does not mean that the other countries have to recognize them.

Dr David Muscat

President FEDCAR

Member Medical Council

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Annex 6:

DOI Press Release 1199, 26.05.2012

Speech by Minister for Health, the Elderly and Community Care Hon Joe Cassar during the FEDCAR Conference, Floriana, 26 May 2012

Thank you for inviting me to contribute to your conference this morning.

It is a pleasure to be here this morning, for two main reasons:

I willingly accepted your invite to contribute to this FEDCAR conference because the objectives of FEDCAR are precisely congruent with the overarching aims of the Ministry which I steer.

FEDCAR seeks to: Maximise patient safety across different countries across Europe; Secure optimal standards of dental care; and facilitate the mobility of dental professionals across the EU.

Indeed that is what we constantly strive for, and strongly aspire for as the Ministry of Health of an EU member state/country. We aim for the best care services for the patients, but also the maximum opportunity and support for the workforce.

It is with great pleasure, and moreover, it is very encouraging to be reminded that local and even international entities such as FEDCAR are here to accompany, support and perhaps also guide us, in government, in our journeys towards reaching our aims.

I commend all the work that you do. I thank you for all you do. The contribution you offer towards achieving our common aims and objectives is always most welcome. We all know that sometimes the challenges are tall and the stakes are high. Supporting each other in developing the appropriate regulations and policies, and determining the correct ways of establishing regulations and delivering policies, can only be favourable.

We look forward towards continuing to working closely with FEDCAR towards enhanced care provision and outcomes, coupled with an increasingly enriched workforce.

Before I end, I am sure you would allow me to note the second reason to why I am glad to be here today. We take much pride in seeing members of our workforce lead such entities as FEDCAR. I am aware that the presidency of FEDCAR is currently held by Dr David Muscat. Also, we take much pride in having our country host an international audience gathered for a conference as this one, being held here today.

I hope you will all enjoy your stay in our dear country. I am confident that it will provide the apt venue for a fruitful conference, which will reveal the outcomes that this conference pursues.

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Annex 7:



Minutes on the FEDCAR General Assembly 26 May 2012 Medical Council of Malta, Valletta

Introduction & presentation of the Medical Council of Malta were made by Dr Muscat.

Minutes of the former general assembly in Paris, November 2011, were adopted without changes to the draft project circulated ahead of the meeting.

Copies of slides displayed during the meeting were distributed to participants.

The address done in the morning by Minister of Health Dr Joe Cassar is attached to these minutes.

1 - Revision of Directive 2005/36 & future EU professional Card

In the perspective of a common position of members of FEDCAR on the revision of Directive 2005/36, the following option regarding the card was presented: whether to suggest to the EU Legislator several amendments on the card or to suggest -like it was done for the I.M.I. system - the card should be discussed outside the revision of Directive 2005/36 in another text and after the conclusions of a prior pilot-project of the card.

It was stated that MEPs in their report in November 2011 supported the principle of the card and that Recital 32 of the current Directive¹⁹ already recognises the principle of the card. Mrs Gilvarry (U.K.) contested the latter and claimed this reading of Recital 32 was probably due to a question of language.

It was reported that some Member States through their ministries (e.g. Poland) or through their national parliament (British House of Lords, German Bundestag) were more than sceptical on the relevance of the proposed card²⁰.

¹⁹ Recital 32 states that "The introduction, at European level, of professional cards by professional associations or organisations could facilitate the mobility of professionals, in particular by speeding up the exchange of information between the host Member State and the Member State of origin. This professional card should make it possible to monitor the career of professionals who establish themselves in various Member States. Such cards could contain information, in full respect of data protection provisions, on the professional's professional qualifications (university or institution attended, qualifications obtained, professional experience), his legal establishment, penalties received relating to his profession and the details of the relevant competent authority."

²⁰ For your convenience is quoted hereafter the cautious conclusions of the Council of Ministers of 5-6 December 2011 that was not recalled during the general assembly: "*IS READY to examine the*

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The following items regarding the card were presented:

The PROCEDURE for setting up the card (Is it a card or a certificate or a certificate combined to a paper-card? How regulated professions can volunteer to use the card?).

Its FUNCTIONING (The replacement of declaration of temporary provision of services; the new mission of host Competent Authority (host Competent Authority should control qualifications stated David O'Flynn (Ireland)); the proposed tight deadlines for issuing and validating a card (a concern for Dr Muscat (Malta) too); the problem of a tacit authorization of free establishment (this system could be a dangerous precedent stated David O' Flynn) ; the end of validity of the card (issue raised by David O' Flynn (Ireland) at the Autumn General Assembly of 2011).

On the basis of a practitioner based in Portugal and in U.K. who is applying for his recognition of qualifications in Luxembourg, Dr Nilles (Luxembourg) raised the issue of the determination of the relevant Competent Authority in case of plural locations of establishment. Such a problem would not exist if a European database of practitioners was constituted stated Dr Nilles.

Its CONTENT (To be defined in the body of the revised Directive or at a later stage at the outcome of a pilot project? Which information should be carried by the card?).

In CONCLUSION: in echo of a statement made by the Spanish Ministry of Health during the hearing organized in European Parliament on 25 April 2012, the possible added value of the card (i.e. the saving of time) was compared to the costs of such a card, arising the issue of the compatibility of the draft card with the key Treaty's principle of proportionality.

2 - Revision of Directive 2005/36 & other provisions

The presented items were as follows:

- The participation of some national parliaments in the consultation process or in the scrutiny test that followed the publication of the draft revision of the Directive was presented.
- Temporary Mobility (possibility of further documents needed to proceed to the annual declaration; possibility of a tighter control of qualifications)
- Free Establishment (the new details on the compensation measures and on the documents needed for the recognition process)
- Administrative cooperation (possible confusion between the competent authority for the recognition process, the points of single contact for the information process and the recognition process, and the assistance centres)

introduction of the European Professional Card, supported by the IMI system and which could help to promote cross-border mobility in the European Union, in particular by speeding up and simplifying recognition procedures, giving more certainty to professionals and enhancing trust among national authorities, keeping in mind that the costs related to the development and delivery of the card have to be further examined;"; FYI, note on 31 May this cautious support was renewed by the Council.

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- Special Status of health practitioners (Partial access; Compulsory alert mechanism (Opinion of the European Data Protection Supervisor; Language skills)
- Qualifications (from EU countries and from third countries)
- Dentist' s Competence

Regarding the EU minimum duration of 5 years of basic dental training, Mrs Gilvarry (U.K.) wanted to learn whether university in members' country may take in consideration a former graduation and allows shorter courses of basic dental training on the basis of other former qualifications. Such is the case in Denmark of the recognition of the degree of Dental Hygienists; in Spain of the License of doctor; in UK of some degrees in biology or in science. The lawyer of the Medical Council of Malta stressed that in that case the recognition of degrees could be achieved but that would be without prejudice of other national requirements needed for the registration of the practitioner (for instance in Belgium, in addition to the final degree a further practice of one year as a trainee is needed to become a qualified dentist).

3 - National regulation of dental activity in combination with EU Law's requirements

Following a series of questions that were circulated to the members ahead of the meeting and in preparation of the general assembly, the two following issues were addressed:

- on free advertising

A recall was made of rules of EU law applying to the national regulation of advertisements for dentists: rules of free circulation of services of advertising under the Treaty, rules of free competition under the Treaty, as well as the provisions from four Directives (Unfair Commercial Practices Directive, Audiovisual Media Services Directive, Services Directive, Electronic commerce Directive).

Dr Nilles detailed a case of a web-advertisement done by a dentist who has two cabinets: one in Germany and one in Luxembourg. The web-advertisement is done from the German cabinet but is also addressed to the Luxembourg's market; the web-advertisement complies with the professional German rules but not with the professional rules from Luxembourg.

- on free competition of prices

A recall was made of rules of EU Competition law applying to the dentists' fees according to which fees must be set freely in theory; an agreement on minimum fees is an illegal agreement on prices under EU Competition law that is admissible only if it is done on State' s mandatory request (e.g. of social security law). Members' national regimes of free prices (DK, EE, HR, IRL, IT, MT, SP), of recommended prices and of minimum or fixed prices (EE for children and retired persons, FR, Monaco, UK) were reported. A current enquiry undertaken by the Spanish Competition Authority was reported by Dr Lopez regarding a set of recommended prices in Canary Islands.

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4 - Recent EU Developments

- Implementation of Directive 2011/24/EU of 9 March 2011 on the application of patients' rights in cross-border healthcare

In preparation of the implementation of this text, the Commission's initiative regarding the recognition of prescriptions issued by a practitioner in his country & executed by a dispenser in patient's country was reported. A Commission's Impact Assessment on the issue is expected in 2012- 2013.

- Implementation of Cosmetics Directive 2011/84/EC on Whitening Products

After the recall of the provisions of Directive 2011/84, were exposed the implementation of these provisions in some countries:

- In Luxembourg, where warning letters were sent to providers of teeth whitening services.
- In France, where (1) dawn-raids in White Bars were commissioned by the French Council of Dentists concluded by the seizure of products with illegal concentration of hydrogen peroxide and concluded by warning messages addressed to the public by the Health Ministry; (2) the providers of teeth whitening services have constituted themselves into a national federation so as to better protect their commercial interests; (3) a litigation has been engaged against the French Council of Dentists by a provider of teeth whitening services for unfair competition.
- In U.K., where three litigations in local courts were reported for illegal practice of dentistry by providers of teeth whitening services; the legal discussion on the competence of the dentist and of the provider of teeth whitening service were not raised to a higher level of courts. Mrs Gilvarry (U.K.) asked whether the whitening activity was restricted to dentist's competence in members' country; Dr Muscat (Malta) replied this competence was currently challenged by dental technicians in his country.

- Dental cabinets & Music

The case-law of the European court of justice C-135/10 of 15 March 2012 was presented; the European judge in a preliminary ruling gave an interpretation of the EU law according to which dentist who broadcasted phonograms free of charge in his private dental practice to his patients was not making a 'communication to the public' within the meaning of EU law; such broadcasting did not, therefore, give rise to a right to remuneration for phonogram producers.

- EU Strategy on Mercury & Dental Amalgams

The presentation of the Commission's strategy was followed by a report of the last "Stakeholder consultation workshop" on Environmental Impact of mercury used in amalgam (in Brussels on 26 March 2012) and by a recall of the conclusions of the SCENHIR's conclusions in 2008 on the absence of scientific evidence to support a connection between dental amalgam & conditions such as Alzheimer's, autism and development disorders in children. In conclusion of this

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Stakeholder consultation workshop, the Commission indicated it needed further studies for running its strategy.

5 – Other

A document listing all the dental specialities existing in members' country was attached to the copies of the slides; Dr Nilles (Luxembourg) spotted that Oral Surgery was from now a speciality recognised in his country; Mrs Jasminka Polic indicated that Parodontology - instead of Periodontology- was actually in practice in Croatia.

A document listing all the dental practitioners' documents required by the competent authorities for applying to a recognition of qualifications was attached to the copies of the slides. It was constituted on the basis of answers sent to FEDCAR's secretariat. It was indicated the document is not definitive and still can be amended or corrected by members.

A working-group regarding the preparation of a position paper on the revision of Directive 2005/36 was constituted. Members were: Estonia, Ireland, Italy, France, and Luxembourg. Ireland agreed to chair it.

The draft document prepared by the working-group will be circulated to the members for approval before its conveying to the EU Legislator by the end of June.

Dr Nilles (Luxembourg) suggested to conclude each general assembly by the adoption of a position paper prepared in advance under the presidency' s monitoring. Dr Marquet (Monaco) seconded this suggestion.

Following the commitment of former G.D.C.'s chairwoman Mrs Alison Lockyer during the meeting in Madrid on 5 November 2011, Mrs Gilvarry (U.K.) will confirm by September that the G.D.C. chairs FEDCAR in 2013 and hosts the Spring 2013 general assembly.

The French Council of Dentists will propose the dates of the next Autumn 2012 general assembly that it will host in the end of November.

End of the Meeting.