

2009 ASEAN MUTUAL RECOGNITION ARRANGEMENT ON MEDICAL PRACTITIONERS

Signed by the Economic Ministers at the 14th ASEAN Summit in Cha-am, Thailand on 26 February 2009

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PREAMBLE

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand, and the Socialist Republic of Viet Nam, Member States of the Association of South East Asian Nations (hereinafter collectively referred to as ASEAN or ASEAN Member States or singularly as ASEAN Member State);

RECOGNISING the objectives of the ASEAN Framework Agreement on Services (hereinafter referred to as AFAS), which are to enhance cooperation in services amongst ASEAN Member States in order to improve the efficiency and competitiveness, diversify production capacity and supply and distribution of services of their services suppliers within and outside ASEAN; to eliminate substantially the restrictions to trade in services amongst ASEAN Member States; and to liberalise trade in services by expanding the depth and scope of liberalisation beyond those undertaken by ASEAN Member States under the General Agreement on Trade in Services (hereinafter referred to as GATS) with the aim to realising free trade in services;

RECOGNISING the ASEAN Vision 2020 on Partnership in Dynamic Development, approved on 14 June 1997, which charted towards the year 2020 for ASEAN the creation of a stable, prosperous and highly competitive ASEAN Economic Region which would result in:

- free flow of goods, services and investment;
- equitable economic development, and reduced poverty and socio-economic disparities; and
- enhanced political, economic and social stability;

NOTING that Article V of AFAS provides that ASEAN Member States may recognise the education or experience obtained, requirements met, or licences or certifications granted in another ASEAN Member State, for the purpose of licensing or certification of service suppliers;

NOTING the decision of the Bali Concord II adopted at the Ninth ASEAN Summit held in 2003 calling for the completion of Mutual Recognition Arrangements (hereinafter referred to as MRAs or singularly as MRA) for qualifications in major professional services by 2008 to facilitate free movement of professionals/skilled labour/talents in ASEAN; and

PROVIDING an MRA for Medical Practitioners that would strengthen professional capabilities by promoting the flow of relevant information and exchange of expertise, experiences and best practices suited to the specific needs of ASEAN Member States;

HAVE AGREED as follows:

ARTICLE I OBJECTIVES

The objectives of this MRA are to:

- 1.1 facilitate mobility of medical practitioners within ASEAN;
- 1.2 exchange information and enhance cooperation in respect of mutual recognition of medical practitioners;
- 1.3 promote adoption of best practices on standards and qualifications; and
- 1.4 provide opportunities for capacity building and training of medical practitioners.

ARTICLE II DEFINITIONS

In this MRA, unless the context otherwise requires:

- 2.1 Medical Practitioner refers to a natural person who has completed the required professional medical training and conferred the professional medical qualification; and has been registered and/or licensed by the Professional Medical Regulatory Authority in the Country of Origin as being technically, ethically and legally qualified to undertake professional medical practice.

- 2.2 Specialist refers to a Medical Practitioner who has the medical specialist training and postgraduate qualification(s) that are recognised by the Country of Origin and has been registered and/or licensed as a specialist if such registration is applicable in the Country of Origin;
- 2.3 Foreign Medical Practitioner refers to a Medical Practitioner including Specialist who holds the nationality of an ASEAN Member State, registered to practise medicine in the Country of Origin and applying to be registered/ licensed to practise medicine in the Host Country.
- 2.4 Registration refers to registering and/or certifying and/or licensing of the Medical Practitioner within a jurisdiction or may refer to the issuance of a certificate or licence to a Medical Practitioner who has met or complied with specified requirements for registration to practise medicine in the Country of Origin and/or Host Country.
- 2.5 Country of Origin refers to the ASEAN Member State where the Medical Practitioner has a current and valid registration to practise medicine.
- 2.6 Host Country refers to the ASEAN Member State where a Foreign Medical Practitioner applies for registration to practise medicine.
- 2.7 Professional Medical Regulatory Authority (hereinafter referred to as PMRA) refers to a body vested with the authority by the government in each ASEAN Member State to regulate and control Medical Practitioners and their practice of medicine. PMRA in this context refers to the following:

Member State	PMRA
Brunei Darussalam	Brunei Medical Board
Cambodia	Cambodian Medical Council and Ministry of Health
Indonesia	Indonesian Medical Council and Ministry of Health
Lao PDR	Ministry of Health
Malaysia	Malaysian Medical Council
Myanmar	Myanmar Medical Council; Ministry of Health
Philippines	Professional Regulation Commission, Board of Medicine and Philippine Medical Association
Thailand	Thailand Medical Council and Ministry of Public Health
Viet Nam	Ministry of Health

- 2.8 Domestic Regulations include laws, by-laws, regulations, rules, orders, directives and policies relating to the practice of medicine issued by the PMRA and/or relevant authorities.
- 2.9 Continuing Professional Development (hereinafter referred to as CPD) is the means by which members of the medical profession maintain, develop or improve their knowledge, skills and professional performance.

ARTICLE III RECOGNITION AND ELIGIBILITY OF FOREIGN MEDICAL PRACTITIONERS

3.1 Recognition of a Foreign Medical Practitioner

A Foreign Medical Practitioner may apply for registration in the Host Country to be recognised as qualified to practise medicine in the Host Country in accordance with its Domestic Regulations and subject to the following conditions:

- 3.3.1 in possession of a medical qualification recognised by the PMRA of the Country of Origin and Host Country;
- 3.3.2 in possession of a valid professional registration and current practising certificate to practise medicine issued by the PMRA of the Country of Origin;
- 3.3.3 has been in active practice as a general Medical Practitioner or specialist, as the case may be, for not less than five (5) continuous years in the Country of Origin;
- 3.3.4 in compliance with CPD at satisfactory level in accordance with the policy on CPD mandated by the PMRA of the Country of Origin;
- 3.3.5 has been certified by the PMRA of the Country of Origin of not having violated any professional or ethical standards, local and international, in relation to the practice of medicine in the Country of Origin and in other countries as far as the PMRA is aware;
- 3.3.6 has declared that there is no investigation or legal proceeding pending against him/her in the Country of Origin or another country; and
- 3.3.7 in compliance with any other assessment or requirement as may be imposed on any such applicant for registration as deemed fit by the PMRA or other relevant authorities of the Host Country.

3.2 Eligibility of a Foreign Medical Practitioner

A Foreign Medical Practitioner who satisfies the above conditions shall be recognised as qualified to practise medicine in the Host Country.

3.3 Undertaking of a Foreign Medical Practitioner

A Foreign Medical Practitioner who is allowed to practise medicine in the Host Country shall be subjected to Domestic Regulations and conditions which include but are not limited to the following:

- 3.3.1 to be bound by Professional and Ethical Codes of Conduct and standards of medical practice imposed by the PMRA of the Host Country;
- 3.3.2 to be bound by prevailing laws of the Host Country;
- 3.3.3 to subscribe to any requirement for insurance liability scheme in the Host Country; and
- 3.3.4 to respect the culture and religious practice of the Host Country.

ARTICLE IV PROFESSIONAL MEDICAL REGULATORY AUTHORITY

- 4.1 Subject to Domestic Regulations, the PMRA of the Host Country shall:
- 4.1.1 evaluate the qualifications, training and experiences of the Foreign Medical Practitioners;
 - 4.1.2 impose any other requirement or assessment for registration where applicable;
 - 4.1.3 grant recognition and register eligible Foreign Medical Practitioners to practise medicine in the Host Country;
 - 4.1.4 monitor and assess the compliance of the registered Foreign Medical Practitioners' practice and conduct in accordance with the Professional and Ethical Codes of Conduct and standards of medical practice of the Host Country; and
 - 4.1.5 take necessary actions in the event any registered Foreign Medical Practitioner failed to practise in accordance with the Professional and Ethical Codes of Conduct and standards of medical practice of the Host Country.

ARTICLE V RIGHT TO REGULATE

This MRA shall not reduce, eliminate or modify the rights, power and authority of each ASEAN Member State, its PMRA and other relevant authorities to regulate and control medical practitioners and the practice of medicine. ASEAN Member States, however, should undertake to exercise their regulatory power reasonably and in good faith for this purpose without creating any unnecessary barriers to the practice of medicine.

ARTICLE VI ASEAN JOINT COORDINATING COMMITTEE ON MEDICAL PRACTITIONERS

- 6.1 An ASEAN Joint Coordinating Committee on Medical Practitioners (hereinafter referred to as AJCCM) shall be established comprising of not more than two (2) appointed representatives from the PMRA of each ASEAN Member State with the following terms of reference:
- 6.1.1 to facilitate the implementation of this MRA through better understanding of the Domestic Regulations applicable in each ASEAN Member State and in the development of strategies for the implementation of this MRA;
 - 6.1.2 to encourage ASEAN Member States to standardise and adopt mechanisms and procedures in the implementation of this MRA;

- 6.1.3 to encourage the exchange of information regarding laws, practices and developments in the practice of medicine within the region with the view of harmonisation in accordance with regional and/or international standards;
 - 6.1.4 to develop mechanisms for continued information exchange as and when needed;
 - 6.1.5 to review the MRA every five (5) years or earlier, if necessary; and
 - 6.1.6 to do any other matters related to this MRA.
- 6.2 The AJCCM shall formulate the mechanism to carry out its mandate.

ARTICLE VII MUTUAL EXEMPTION

- 7.1 The ASEAN Member States recognise that any arrangement which would confer exemption from further assessment by the PMRA of the Host Country may be concluded only with the involvement and consent of that PMRA.
- 7.2 The ASEAN Member States note that the PMRA of the Host Country has the statutory responsibility of protecting the health, safety, environment, and welfare of the community within its jurisdiction, and may require the Foreign Medical Practitioners seeking the right to practise in the Host Country to submit themselves to some form of supplementary requirements or assessment.
- 7.3 The ASEAN Member States recognise that such requirements or assessment shall provide the PMRA of the Host Country with a sufficient degree of confidence that the Foreign Medical Practitioners concerned:
- 7.3.1 are equipped with the necessary skills and expertise consistent with the medical practice, general and/or specialised, that they intend to carry out and undertake in the Host Country;
 - 7.3.2 understand the general principles behind applicable Professional and Ethical Codes of Conduct and standards of medical practice in the Host Country and demonstrate an ability to apply such principles in carrying out medical practice in the Host Country; and
 - 7.3.3 are familiar with the Domestic Regulations that govern the operation of medical practice in the Host Country.

ARTICLE VIII DISPUTE SETTLEMENT

- 8.1 ASEAN Member States shall at all times endeavour to agree on the interpretation and application of this MRA and shall make every attempt through communication, dialogue, consultation and cooperation to arrive at a mutually satisfactory resolution of any matter that might affect the implementation of this MRA.

8.2 The ASEAN Protocol on Enhanced Dispute Settlement Mechanism, done at Vientiane, Lao PDR on 29 November 2004, shall apply to disputes concerning the interpretation, implementation, and/or application of any of the provisions under this MRA upon exhaustion of the mechanism in Article 8.1.

ARTICLE IX AMENDMENTS

9.1 Any provision of this MRA may only be amended by mutual written agreement by the Governments of all ASEAN Member States.

9.2 Notwithstanding Article 9.1, any ASEAN Member State may amend its PMRA listed in Article 2.7 as and when necessary without the mutual agreement of the other ASEAN Member States. Any amendment shall be communicated to the other ASEAN Member States through the ASEAN Secretariat in writing.

ARTICLE X FINAL PROVISIONS

10.1 The terms and definitions and other provisions of the GATS and AFAS shall be referred to and shall apply to matters arising under this MRA for which no specific provision has been made herein.

10.2 This MRA shall enter into force six (6) months after the signing of this MRA by all ASEAN Member States. Any ASEAN Member State that wishes to defer implementation of this MRA shall notify the ASEAN Secretariat in writing of its intention within 6 months from the date of signature and the ASEAN Secretariat shall thereafter notify the rest of the ASEAN Member States. The deferment shall be effective upon notification by the ASEAN Secretariat to the other ASEAN Member States.

10.3 Any ASEAN Member State which has, pursuant to Article 10.2 of this MRA, given notice of deferment of its implementation, shall notify the ASEAN Secretariat of the indicated date of implementation of this MRA, which shall not be later than 1 January 2010. The ASEAN Secretariat shall thereafter notify the rest of the ASEAN Member States of the indicated date of implementation of this MRA. An ASEAN Member State which does not notify the ASEAN Secretariat of its date of implementation by 1 January 2010 shall be bound to implement this MRA on 1 January 2010.

10.4 This MRA shall be deposited with the ASEAN Secretariat, who shall promptly furnish a certified copy thereof to each ASEAN Member State.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this ASEAN Mutual Recognition Arrangement on Medical Practitioners.

DONE at Cha-am, Thailand, this Twenty Sixth Day of February in the Year Two Thousand and Nine, in a single original copy in the English Language

For Brunei Darussalam: **LIM JOCK SENG**, Second Minister of Foreign Affairs and Trade

For the Kingdom of Cambodia: **CHAM PRASIDH**, Senior Minister and Minister of Commerce

For the Republic of Indonesia: **MARI ELKA PANGESTU**, Minister of Trade

For the Lao People's Democratic Republic: **NAM VIYAKETH**, Minister of Industry and Commerce

For Malaysia: **TAN SRI MUHYIDDIN YASSIN**, Minister of International Trade and Industry

For the Union of Myanmar: **U SOE THA**, Minister for National Planning and Economic Development

For the Republic of the Philippines: **PETER B. FAVILA**, Secretary of Trade and Industry

For the Republic of Singapore: **LIM HNG KIANG**, Minister for Trade and Industry

For the Kingdom of Thailand: **PORNTIVA NAKASAI**, Minister of Commerce

For the Socialist Republic of Viet Nam: **VU HUY HOANG**, Minister of Industry and Trade